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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Working Group on Enforced or Involuntary Disappearances

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Introduction

1. The present report of the Working Group on Enforced or Involuntary Disappearances is submitted pursuant to Commission on Human Rights resolution 1992/30, entitled "Question of enforced or involuntary disappearances". It has been prepared taking into account, in addition to the particular tasks entrusted to the Working Group on Enforced or Involuntary Disappearances by the Commission in its resolutions 1992/30 and 1992/24, several tasks entrusted to all working groups and special rapporteurs by the Commission in its resolutions 1992/22, 1992/42, 1992/57 and 1992/59. All those tasks have been given specific attention and consideration by the Working Group in the course of 1992.

2. During the year under review, the Working Group has continued to carry out the activities it has undertaken since its establishment. Its primary role, which it has described in previous reports, is to act "as a channel of communication between families of the missing persons and the Governments concerned". Since its inception, the Working Group has analyzed thousands of cases of disappearance and other information received from non-governmental organizations, individuals and other sources of information from all over the world in order to ascertain whether such material falls under the Working Group's mandate and contains the required elements; entered cases into its database; transmitted those cases to the Governments concerned; forwarded the Governments' replies to relatives or other sources; followed up investigations carried out by the Governments concerned and the inquiries made by the relatives or other agencies or organizations; maintained an abundant correspondence with Governments and the sources of information in order to obtain details on the cases and the investigations; examined allegations of a general nature concerning a specific country or other matters related to its mandate, such as measures proposed or taken with a view to eliminating the practice of disappearance; undertaken research and studies with regard to the question of disappearances in general and other related matters falling within its mandate, with a view to submitting concrete suggestions and recommendations to the Commission.

3. As in previous years, the Working Group has taken urgent steps in cases that allegedly occurred within the three months preceding the receipt of the report by the Group and in cases in which relatives of missing persons, or other individuals or organizations which have cooperated with the Group, as well as their legal counsel, have been subject to intimidation, persecution or reprisals.

4. In 1992, the Working Group continued to process a backlog of some 12,000 reports submitted to it in 1991 and received some 10,000 new cases of disappearance in 36 countries. The number of countries in which disappearances have allegedly occurred since the establishment of the Working Group has gone up from 47 last year to 58 in 1992. At the time of writing, a backlog of about 8,000 cases had not yet been processed and analyzed prior to their transmission to the Governments concerned. An exceptional effort on the part of the staff servicing the Working Group has enabled a total of 8,651 cases to be processed this year. In addition, the number of cases being followed up by the Working Group now stands at 31,106. The increase in this

figure during the last two years implies that more replies are received from Governments which in turn have to be analysed and processed.

5. The Working Group feels that the lack of resources and personnel allotted to it, in particular secretarial staff and equipment, which has not been increased during the last 12 years, poses a serious obstacle to the fulfilment of the Working Group's mandate. Since last year, a considerable number of cases could not be processed owing to the reduced staff-time assigned to the Working Group and to an increase in the number of cases received by it. However, the Working Group wishes to draw the attention of the Commission to the fact that almost twice the number of reports were examined and processed this year as in 1991, and more than four times the number transmitted in previous years.

6. In 1992, approximately 6,000 alleged cases of disappearance occurring in the former Yugoslavia were brought to the attention of the Working Group. In this connection, constraints of available time and personnel resources played a role in the decision taken by the Working Group (see paras. 36-44 and 511 below). In addition, the Working Group has been called upon by specific Governments to provide certain new services in order to improve the chances of locating missing persons. Specifically, the Government of Iraq has requested that all transmissions of cases include information in the Arabic language so that errors of transliteration may be avoided, while the Government of Peru has requested linkages with the Working Group's database so that it may deal more quickly and efficiently with cases of disappearance reported in that country.

7. Should the Working Group respond positively to such requests, as indeed it hopes to, sufficient resources will have to be placed at its disposal, as these services will involve additional work - which implies yet another financial burden and potential delays. It is evident that without any improvement in the resources available to the Working Group in 1993 it will be difficult to fulfil commitments to provide such services, though they would clearly assist in the search for missing persons.

8. A second visit to Sri Lanka was carried out by three members of the Working Group in 1992, in response to an invitation extended by the Government during the forty-eighth session of the Commission on Human Rights. The main purpose of this second visit was to assess the effectiveness of measures taken by the Government with regard to the serious problem of disappearances in the country and to evaluate in situ the development of the situation relating to this matter. The report of that visit is contained in the addendum to the present document (E/CN.4/1992/25/Add.1). The country section on Sri Lanka in the main report has been maintained and provides information on decisions taken by the Group with respect to individual cases reported to it during the year, along with the customary statistical summary. Statements by representatives of the Government and the views of non-governmental organizations, except for those received after the visit, are described in the addendum.

9. During 1992, the Working Group has continued its consideration of several matters relating to the phenomenon of disappearances per se, with a view to finding ways to diminish the number of cases, to alleviate the consequences of

this hideous practice, or to eliminate it entirely. The Working Group examined the problem of impunity as one of the most important factors contributing to disappearances. It also took a number of steps to assist the Secretary-General to study the possibility of setting up a standing team of experts in forensic science, sponsored by the United Nations, which could assist its human rights bodies in the exhumation and identification of probable victims of human rights violations and related abuses.

10. The present report follows the same pattern as previous reports to the Commission. It therefore reflects only communications or cases received before 4 December 1992, i.e. the last day of the third annual session of the Working Group. Urgent action cases continue to be processed and will be reflected, together with communications received after 4 December 1992, in the next report. The graphs that appear at the end of the report do not include the year under consideration because, in the Working Group's experience, many cases are received only the following year, so that the column for the current year does not properly reflect the actual situation in a given country. In addition, the graphs for 1990 and 1991 do not often reflect the number of disappearances reported for the corresponding year, due to a considerable backlog in the transmission of cases.

I. ACTIVITIES OF THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES IN 1992

A. Legal framework for the activities of the Working Group

11. The legal framework for the activities of the Working Group has been extensively described in its reports to the Commission on Human Rights at its forty-first to forty-eighth sessions. 1/

12. In resolution 30/1992, adopted at its forty-eighth session, the Commission, profoundly concerned about the fact that the practice of enforced or involuntary disappearances was continuing in various regions of the world, decided to extend for three years the mandate of the Working Group as defined in Commission resolution 20 (XXXVI), in order to enable the Group to take into consideration all such information as might be communicated to it on cases brought to its attention, while retaining the principle of annual reporting by the Group.

13. The Commission requested the Group to report on its work to the Commission at its forty-ninth session, and reminded it of the obligation to discharge its mandate in a discreet and conscientious manner; it also requested the Group to submit to the Commission all appropriate information it deemed necessary and all concrete suggestions and recommendations regarding the fulfilment of its tasks, and to draw attention to cases concerning children of disappeared parents.

14. By the same resolution, Governments were urged to cooperate with the Working Group by replying expeditiously to the Working Group's requests for information and also with regard to any measure taken in pursuance of recommendations addressed to them by the Group; to take legislative or other steps to prevent and punish acts of enforced disappearance; to take steps to ensure that, when a state of emergency was introduced, the protection of human rights was guaranteed, particularly as regards the prevention of enforced or

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1/ Since its creation in 1980, the Working Group has submitted a report to the Commission annually, starting at the Commission's thirty-seventh session. The document symbols of the last 12 reports are as follows:

E/CN.4/1435 and Add.1
E/CN.4/1492 and Add.1
E/CN.4/1983/14
E/CN.4/1984/21 and Add.1 and 2
E/CN.4/1985/15 and Add.1
E/CN.4/1986/18 and Add.1
E/CN.4/1987/15 and Corr.1 and Add.1
E/CN.4/1988/19 and Add.1
E/CN.4/1989/18 and Add.1
E/CN.4/1990/13
E/CN.4/1991/20 and Add.1
E/CN.4/1992/18 and Add.1

involuntary disappearances, and to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected.

15. The Commission also reminded Governments of the need to ensure that their competent authorities conducted prompt and impartial inquiries when there was reason to believe that an enforced or involuntary disappearance had occurred in territory under their jurisdiction. The Commission repeated its request to the Secretary-General to ensure that the Working Group received all necessary assistance, in particular the staff and resources it required to perform its functions, especially in carrying out missions, following them up and holding sessions in countries that would be prepared to receive it.

16. In addition, in its resolution 1992/24, the Commission requested the Working Group to render active assistance to the Secretary-General, on the basis of its own experience as evidenced in many of its reports to the Commission, in his consultation with appropriate professional organizations in the field of forensic science and related disciplines, with a view to studying the practical and financial viability of creating, under United Nations auspices, a standing team of forensic experts and experts in other relevant disciplines to assist, on the basis of professional objectivity and in a humanitarian spirit, in the exhumation and identification of probable victims of human rights violations or in the training of local teams for the same purpose.

17. In its resolution 1992/22, the Commission invited the Working Group to pay particular attention, within the framework of its mandate, to the situation of persons detained, ill-treated or discriminated against for having exercised the right to freedom of opinion and expression; in resolution 1992/42 the Commission requested all special rapporteurs and working groups to continue paying particular attention to the adverse effects on the enjoyment of human rights of acts of violence committed by armed groups, regardless of their origin, that spread terror among the population and by drug traffickers; in its resolution 1992/57 the Commission requested the special rapporteurs and working groups concerned to pay due attention within their mandates to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms.

18. In its resolution 1992/59, the Commission also requested all representatives of United Nations human rights bodies as well as treaty bodies monitoring the observance of human rights to continue to take urgent steps, in conformity with their mandates, to help prevent acts of intimidation or reprisal against those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies or who have provided testimony or information to them; those who availed or had availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and those who had provided legal assistance to them for this purpose; those who had submitted communications under procedures established by human rights instruments; and those who were relatives of victims of human rights violations. The Commission further requested such representatives to include in their respective reports a reference to allegations of intimidation or reprisal as well as an account of action taken by them in this regard.

B. Meetings and missions of the Working Group

19. The Working Group held three sessions in 1992. The thirty-sixth session was held in New York from 18 to 22 May, and the thirty-seventh and thirty-eighth sessions were held in Geneva from 31 August to 4 September and from 25 November to 4 December respectively. During these sessions, the Working Groups held nine meetings with representatives of Governments and 12 meetings with representatives of human rights organizations, associations of relatives of missing persons, families or witnesses directly concerned with reports of enforced disappearances, and organizations involved in forensic science which have a recognized experience in the exhumation and identification of probable victims of human rights violations. As in previous years, the Working Group examined information on enforced or involuntary disappearances received from both Governments and non-governmental organizations and decided, in accordance with its methods of work, on the transmission of the reports or observations received to the Governments concerned, on the request for complementary information when that received was not sufficient and on the clarification of relevant cases. The Working Group also took decisions on follow-up questions it wished to ask the Governments concerned on the implementation of the recommendations made by the Group following its field missions to those countries which had taken place in previous years.

20. On 27 February 1992, during the discussion on agenda item 12 at the forty-eighth session of the Commission on Human Rights, the Chairman read a statement on behalf of the Commission, in lieu of a resolution, on the situation of human rights in Sri Lanka. In this statement, the Commission acknowledged the measures taken by the Government of Sri Lanka to address the human rights situation throughout the country; however, it stated that it was seriously concerned about the overall human rights situation in the country and particularly about the large number of disappearances recorded by the Working Group in its report. It called upon the Government of Sri Lanka to intensify its efforts to ensure the full protection of human rights and urged it to implement the recommendations formulated by the Group; the Commission requested the Government to extend an invitation to the Working Group on Enforced or Involuntary Disappearances to carry out a return visit to Sri Lanka in order to assess the ongoing human rights situation and the extent to which the recommendations made in the report on the Working Group's first visit to Sri Lanka in October 1991 had been implemented.

21. The Government of Sri Lanka accordingly extended an invitation to the Working Group. Following that invitation, and bearing in mind the exceptionally large number of cases of disappearance reported to it, the Working Group agreed to undertake a follow-up visit to that country. In consultation with the Government, it was established that the visit would take place from 5 to 15 October 1992.

22. The three members of the Working Group who carried out the 1991 visit represented the Working Group again during the 1992 visit, which was carried out in accordance with paragraphs 5, 7 and 8 of Commission resolution 1992/41 and paragraph 9 of resolution 1992/30. The report on the visit was considered and approved by the Working Group at its thirty-eighth session and is contained in document E/CN.4/1993/25/Add.1.

C. Communications with Governments

23. In 1992, the Working Group transmitted 8,651 new cases of enforced or involuntary disappearance to the Governments concerned; among these cases, approximately 4,000 had been received in 1992, while the rest were part of the Working Group's backlog. Three hundred and fifty-three of the cases transmitted were reported to have occurred in 1992; 348 were transmitted under the urgent action procedure, of which 53 were clarified during the year. Many of the cases received were referred back to the sources as they lacked one or more elements required by the Working Group for their transmission or because it was not clear whether they fell within the Working Group's mandate; other cases were considered inadmissible within the context of that mandate.

24. The Group also transmitted to the Governments concerned further information on cases previously transmitted and observations provided by the sources on the Governments' replies; it reminded Governments of the outstanding cases and, when requested, retransmitted the summaries of those cases or the diskettes containing those summaries to them. In addition, all outstanding cases transmitted during the preceding six months under the urgent action procedure were retransmitted in January and July 1991.

25. Governments were also informed about clarifications and about cases for which the reply received from the Government had been transmitted to the source and would be considered a clarification provided the source did not make objections within a period of six months.

26. At its thirty-seventh session the Working Group, observing that a number of Governments had not replied to the Group's requests for investigation and information on cases of alleged disappearance transmitted to them, decided to send a new special reminder to those Governments. In the letter containing the reminder, it was explained that for the Group to fulfil the mandate entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential. The Governments concerned were therefore requested to take urgent steps to clarify those cases and to transmit to the Working Group the results of their investigations. The country subsections contain further information on the specific letter sent to each of the Governments concerned.

27. The Working Group transmitted to Governments "prompt intervention" communications concerning intimidation of or reprisals against those persons referred to in Commission resolutions 1992/30 and 1992/59. More information on the action taken in this context is contained in the country subsections.

28. In accordance with paragraphs 4, 7, and 8 of Commission resolution 1992/41 and with paragraph 9 of resolution 1992/30, the Governments of Colombia, Guatemala, Peru and the Philippines provided to the Working Group relevant information on measures taken by them in order to implement some of the recommendations formulated by the Group in its reports on visits made to those countries in previous years. This information is reflected in the subsections dealing with those particular countries. The Working Group examined those replies against information on disappearances and information of a general nature received from non-governmental sources. The results of

its analysis are reflected in new letters addressed by the Working Group to those Governments, which are also contained in the relevant chapters.

29. The Working Group also examined information communicated to it by Governments pursuant to resolution 1992/42, relating to acts of violence or terrorist activities committed by armed opposition groups. This information is also reflected in the country subsection.

D. Communications with non-governmental organizations and relatives of missing persons

30. During 1992 the Working Group continued to receive thousands of new reports of individual cases of disappearance occurring in an increasing number of countries. For some of these countries the number of disappearances reported up to 1991 was already in the thousands, e.g. Colombia, Iraq, Peru and Sri Lanka. In a number of countries, only one or a few cases of disappearance were reported to the Working Group.

31. Again, as in previous years, the Working Group received reports and expressions of concern from non-governmental organizations, associations of relatives of disappeared persons and individuals about the safety of persons actively engaged in the search for missing persons, in reporting cases of disappearance or in the investigation of cases. In some countries, the mere fact of reporting a disappearance entailed a serious risk to the life or the security of the person making the report or his/her family members. Members of the judiciary involved in investigations into cases of serious human rights violations were often subjected to intimidation or reprisals and were, in certain countries, removed from their posts for having taken decisions or expressed views that the Government disliked. In addition, individuals, relatives of missing persons and members of human rights organizations were frequently harassed and threatened with death for reporting cases of human rights violations or investigating such cases.

32. Many reports were also received by the Working Group which noted with dismay that several Governments, including some democratically elected Governments, had systematically precluded investigations into serious human rights violations, thereby helping those responsible to evade accountability for them.

33. Several national and international organizations stressed that Governments had an obligation to disclose the information relating to disappearances available in official archives or records, which were often in the hands of military or police authorities, because it was their duty to provide the relatives of missing persons with the legal means to establish the truth about what had happened to their loved ones. In countries where investigations into disappearance were being carried out, evidence was often difficult to obtain due to the fact that military or police records were not made available; these were essential in countries where disappearances had been systematic.

34. Some non-governmental organizations informed the Working Group that certain parliamentary groups, lawyers' organizations or individuals were trying to secure the enactment of special criminal legislation defining

"disappearances" as a crime. Drafts of such legislation were included. The Working Group believes that the adoption of the Declaration on the Protection of All Persons from Enforced Disappearance (see annex II) will greatly facilitate the task of those who wish to propose national legislation on this matter.

35. During 1992, the Working Group sent to all non-governmental organizations cooperating with it the text of those resolutions adopted by the Commission on Human Rights at its forty-eighth session containing mandates entrusted to the Working Group.

E. The question of disappearances in the former Yugoslavia

36. Over the past year, the Working Group has received a large number of communications relating to cases of disappearance in the former Yugoslavia (see para. 6 above). The Group has considered the question of what action it should take with regard to these cases. In view of the complexity of the matter, the Group, before taking a decision, wishes to seek the guidance of the Commission on Human Rights, its parent body. More precisely, the Group would appreciate receiving clear instructions from the Commission at its forty-ninth session on how to proceed with these cases; this would enable the Group to act accordingly during its thirty-ninth session, in May 1993. Pending the Commission's consideration of the matter, the Group will keep the cases concerning the former Yugoslavia in abeyance.

37. In order to provide the Commission with an adequate basis for reflecting on the matter, the Working Group wishes to submit the following comments.

38. From the very early years of its existence, the Working Group has consistently taken the view that cases occurring in the context of an international armed conflict should not be taken up by the Group. That position was occasioned by the Iran-Iraq war. The Group argued at the time that taking up all cases of disappearance occurring in international armed conflicts, including the disappearance of combatants, would be a task far surpassing the resources of the Group. It also argued that, in any event, there already existed an international agency, namely the International Committee of the Red Cross, entrusted with the duty of tracing disappeared persons in such circumstances. In 1982, the Working Group placed before the Commission on Human Rights its rule of not considering cases arising out of international armed conflict and received no instruction to the contrary. In 1988, the Working Group submitted its entire working methods, including the above rule, to the Commission. At that time and since then, the Commission has not given any instruction to the Group to change its methods of work in any way.

39. As regards the situation in the former Yugoslavia, the Working Group is not aware of any authoritative position within the United Nations system which might give it guidance as to whether the armed conflict in that area is of an international or an internal character, nor as from what date it assumed such a character, nor whether the conflict might be characterized differently for different parts of the area at any given time. The Security Council consistently refers to "the armed conflict" and avoids qualifying it as either

international or internal. Legal advisers differ on the subject. The Working Group has no independent means of establishing the character of the conflict and acting accordingly.

40. As it happens, the Working Group is not at present seized with any case of disappearance dating from before the declaration of independence of Croatia in June 1991. On the other hand, it is seized with thousands of cases which occurred in the region of Vukovar in the months thereafter. More importantly, it appears that a considerable number will be forthcoming in the near future. It is obvious that if the Group were asked to involve itself in the situation in the former Yugoslavia, its resources would be totally inadequate to meet an influx of such magnitude. Even at present, due to the scant human resources at the Centre for Human Rights, the Working Group is trying to cope with an existing backlog of over 8,000 cases of disappearance waiting for transmission to the Governments concerned.

41. Apart from the question of resources, the methods of work of the Working Group - developed over a period of 12 years and sustained at successive sessions of the Commission - are not really geared to handling situations of the size and nature of the one in the former Yugoslavia. The Group's approach has consistently been to consider cases on an individual basis; this would, of course, become an illusion if attempted in a situation where the disappearances are on a very large scale, an experience the Group already suffered in the case of Iraq regarding disappearances that occurred after the end of the war with Iran.

42. Incongruity exists between the exigencies of the situation in the former Yugoslavia and the Group's existing methods of work. One issue, perhaps solvable in a pragmatic manner, is that, according to the Group's modus operandi, cases of disappearance are addressed to the responsible Government, i.e. the Government on whose territory the disappearance occurred. Obviously, in the reality of present-day Yugoslavia, large numbers of cases might fall between two stools, as both Governments and territories have dramatically changed and are still in the process of doing so. Of course, the Working Group could not be expected to devise special working methods to suit the requirements of one particular situation, however important.

43. The world is looking at one of the most dramatic episodes of humanitarian crisis and large-scale violation of human rights since the Second World War. The United Nations is bound to concern itself eventually with all aspects of the situation and can hardly turn a blind eye on one particular aspect, such as the occurrence of thousands of disappearances. Relatives, interested parties and the public at large would fail to understand the absence of significant action on the part of the United Nations. On the other hand, when the United Nations does take steps in the matter, its action should be commensurate to the situation addressed. Action which failed to meet the minimum standards of effectiveness, and therefore failed to contribute significantly towards resolving the problem of disappearances, might equally be harmful to the image of the world organization. If the Working Group were to assume the responsibility itself, its involvement in the matter would amount, at best, to a bookkeeping exercise, which would hardly do justice to the proportions of the problem.

44. As an alternative, the Commission might well wish to turn to a recommendation contained in the first report of Mr. Mazowieski, the Special Rapporteur on the former Yugoslavia (see A/47/418, para. 67), that a special commission be established to look into the question of disappearances in the area. Were the Commission to follow that suggestion, it would have the opportunity of establishing a specialized body with terms of reference attuned to the situation under investigation. Such a body would in turn be in a position to develop working methods accordingly. To this end, the Working Group remains available to assist the Special Rapporteur or any other mechanism that might be established by the Commission for this purpose.

F. The question of impunity

45. In its last report to the Commission on Human Rights, the Working Group reported that, in accordance with its mandate, it had decided to address to all States Members of the United Nations, as well as to non-governmental organizations concerned with disappearances, a letter requesting their comments or observations on the question of impunity as it affects the practice of enforced or involuntary disappearances in general, and in particular in relation to a number of tentative considerations elaborated by the Group on the basis of its own experience and of reports submitted by non-governmental organizations.

46. Pursuant to paragraph 5 of resolution 1992/30, the Working Group decided to continue its consideration of this matter in 1992 with a view to enlarging the scope of the analysis and to making relevant recommendations. To this end, the Working Group decided to include among its tentative considerations new issues it considered relevant to the matter. A second letter on the question of impunity was then addressed to all Member States which had not replied to the first communication, noting the following:

(a) Habeas corpus is one of the most powerful legal tools for discovering the fate or whereabouts of a disappeared person; its rapid implementation could help to prevent grave violations of human rights from occurring and enhance the accountability of those responsible for disappearances and arbitrary detention. Consequently, it is essential that legislation provide for an expeditious and easily available habeas corpus procedure which gives judges the possibility of investigating thoroughly the fate or whereabouts of detainees, including unhampered access to all places at which persons deprived of their liberty are held and to each part thereof, as well as to any place in which there are grounds to believe that disappeared persons may be found. Those in charge of conducting investigations (or carrying them out), as well as those who are requested to provide information or to implement measures required by the judges should be accountable for the rapid and fair accomplishment of their duties;

(b) A proper functioning of the administration of justice is an important element to ensure that those responsible for disappearances are identified and do not go unpunished. Consequently, such administration should be provided with enough resources for its functioning, be protected from intimidation and have full cooperation from all branches of the administration. In particular, up-to-date and accessible registers of

detainees should make it possible to learn the whereabouts of any person deprived of his liberty as well as the identity of the person(s) responsible for the arrest and detention;

(c) Steps should be taken to ensure that all persons involved in the investigation of disappearances, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisals. Any ill-treatment, intimidation or reprisals or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure should be appropriately punished;

(d) All acts of enforced disappearance should be offences under criminal law, punishable by appropriate penalties which should take into account their extreme seriousness;

(e) The investigation, prosecution and punishment of those responsible for disappearances should conform to internationally recognized principles of due process of law and should not be subject to any limitation of time;

(f) The investigation of disappearances and the publication of the results of the investigations are perhaps the most important means of establishing accountability for the Government itself. The identity of the victims, as well as the identity of those responsible for devising policies and practices, those who carried out disappearances and those who knowingly aided and abetted them, should be made known to the public;

(g) No laws or decrees should be enacted or maintained which, in effect, afford the perpetrators of disappearances immunity from accountability;

(h) The duty to investigate, prosecute and punish those responsible for gross abuses such as disappearances is proportionate to the extent and severity of the abuses and the degree of responsibility for such abuses. In making such determinations, it is essential that there should be no granting of impunity either because of the identity of those responsible for gross abuses of human rights or because of the identity of the victims;

(i) The prosecution and punishment of offences involving gross violations of human rights such as disappearances should be dealt with in civilian courts, even if those under prosecution have been or are members of the armed forces;

(j) Obedience to orders (in circumstances other than duress) is not a valid defence in the process of determining criminal responsibility for disappearances. However, in determining the appropriate punishment, obedience to orders may be regarded as a mitigating circumstance according to the facts of each case.

47. At the time of the adoption of the present report, the following countries had provided replies to the Working Group's letters: Austria, Bahrain, Belarus, Bolivia, Brunei Darussalam, Burkina Faso, Chile, China, Colombia, Cuba, Cyprus, Ecuador, Egypt, Iran (Islamic Republic of), Iraq,

Malaysia, Mexico, Morocco, Myanmar, Namibia, Pakistan, Panama, the Philippines, Qatar, Singapore, Tunisia, Uruguay, Yugoslavia, Western Samoa.

48. The following non-governmental organizations sent to the Working Group their comments and observations on the question of impunity and on the specific tentative considerations: American Association of Jurists (AAJ), Americas Watch, Amnesty International, Association of French Families of Political Prisoners in Guinea, Centre of Studies and Action for Peace (Peru), Coalition Against Impunity, Commission of Human Rights in El Salvador, Commission for the Defence of Human Rights in Central America, Committee for the Defence of Human Rights in Honduras, Guatemalan Human Rights Commission, International Commission of Jurists, International Federation Terre des Hommes, International League for Human Rights, International League for the Rights and Liberation of Peoples (Colombian branch), Kisulang Mayo Uno (Philippines), Monsignor Oscar Arnulfo Romero Christian Legal Aid (El Salvador), Oecumenical Movement for Human Right (Argentina), Peace and Justice Service in Latin America, Sikh Human Rights Group, and Uruguayan Bar Association.

49. The views expressed by Governments and non-governmental organizations are contained in annex I to the present report. At its thirty-eighth session, the Working Group decided to continue its consideration of this matter in 1993.

G. Assistance to the Secretary-General in his consultation with appropriate professional organizations in the field of forensic science

50. Pursuant to Commission resolution 1992/24, by which the Commission requested the Working Group on Enforced or Involuntary Disappearances to render active assistance to the Secretary-General, on the basis of its own experience in the matter, in his consultation with appropriate professional organizations in the field of forensic science, the Working Group held meetings and exchanged correspondence with a certain number of such organizations particularly concerned with the question of human rights. At its thirty-sixth session in New York and during its thirty-seventh session in Geneva, the Working Group met members of the American Association for the Advancement of Science, Physicians for Human Rights and the Argentine Team of Forensic Anthropology, which have been involved in several missions and training activities relating to the exhumation and identification of victims of human rights violations. The Committee of Concerned Forensic Scientists and Physicians of the University Institute of Forensic Medicine, Odense, Denmark, was also contacted.

51. In the Working Group's view, these organizations were the most appropriate as a starting-point for consultation, because they had accumulated valuable experience through numerous activities carried out in recent years in different countries and had also established contacts with national organizations through training courses given to local groups; they were also familiar with modern techniques for the exhumation and identification of corpses. During the preliminary stage of the consultation, the Group addressed only organizations or groups in the field of medical or anthropological activities; in a second stage it will also undertake consultations with experts in other related disciplines.

52. The Working Group also contacted groups of experts, such as the Medical Action Group of Manila, Philippines; the Mahidol University of Bangkok, Thailand; the Association of Physicians for Humanism in Seoul, Korea; the Chilean Forensic Anthropology Group, Santiago; the Nucleo de Estudos da Violencia of Sao Paulo University, Brazil, and the Guatemalan Team of Forensic Anthropology.

53. After having received a number of suggestions from the three organizations initially contacted, the Working Group elaborated a draft scheme which was transmitted to all the above-mentioned organizations for comments. On the basis of such comments, a preliminary scheme has been produced, based on the following elements:

(1) A list of organizations with confirmed experience in human rights and forensic science will be maintained by the Working Group on Enforced or Involuntary Disappearances;

(2) These organizations will designate experts to work on the relevant activities envisaged by different programmes;

(3) Three types of programme for forensic activities in relation to human rights can be foreseen: (a) programmes requested by Governments; (b) programmes initiated at the request of special rapporteurs, working groups or other United Nations organs; (c) programmes requested by non-governmental organizations. The first type of programme will be requested by Governments to the United Nations, which will provide them with the list of experts so that they can choose the organization dealing with forensic services they wish to work with for that programme. In the second type of programme, the special rapporteurs, working groups or other United Nations organs concerned will decide, in consultation with the relevant Government, on the organization that will carry out the forensic expertise in connection with their respective mandates. With regard to the third type of programme, non-governmental organizations will inform the Working Group on Enforced or Involuntary Disappearances of their wish to undertake such a programme, indicating the experts or organization they wish to work with. At their request, the Working Group will initiate consultations with the Government concerned. Whenever such consultations have already taken place locally, and an agreement has been reached with national or municipal authorities, the Working Group will take note of the agreement and will recommend that the relevant programme be sponsored by the United Nations, provided that it falls under the terms and within the spirit of resolution 1992/24.

(4) Sponsorship by the United Nations will not imply any financial engagement in the activities of the programme. It will imply that the programme is considered to be carried out within the context of Commission on Human Rights resolution 1991/24 and that the experts and the Government concerned will be committed to respect at all times international human rights standards. The experts will also be committed to guide their action by general rules governing the

conduct of international United Nations experts in the performance of their duties and will have the legal status of experts on mission in accordance with sections 22 and 23 of article VI of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946.

54. The Working Group feels that some non-governmental organizations in the human rights field and associations of relatives of victims of human rights violations which have participated in the preparation of the various missions carried out for the purpose described in resolution 1992/24 should also be consulted. However, during 1992, time and personnel constraints have delayed the furthering of the consultation process.

55. The information obtained from the various organizations in the course of 1992, as well as the preliminary scheme developed as a result have been transmitted to the Secretary-General, together with a recommendation by the Working Group that consultations should continue during 1993.

H. Declaration on the Protection of All Persons from Enforced Disappearance

56. At its thirty-eighth session, the Working Group decided to include in the present report, as an annex, the text of the draft Declaration on the Protection of All Persons from Enforced Disappearance approved by the Commission on Human Rights. In its resolution 1992/29, the Commission decided to transmit the text to the General Assembly for adoption, through the Economic and Social Council. The Declaration contains provisions which the Group hopes will guide the action of the international community and the States Members of the United Nations. The Declaration will greatly help to improve the situation throughout the world by creating widespread awareness of the evil of the practice of enforced disappearance, which violates the most fundamental principles on which human societies base their hopes of peaceful coexistence and democratic development.

II. INFORMATION CONCERNING ENFORCED OR INVOLUNTARY DISAPPEARANCES IN VARIOUS COUNTRIES REVIEWED BY THE WORKING GROUP

Afghanistan

Information reviewed and transmitted to the Government

57. The Working Group's activities in relation to Afghanistan are recorded in its last six reports to the Commission. 1/

58. During the period under review, the Working Group transmitted one newly reported case of disappearance to the Government of Afghanistan by letter dated 15 December 1992, which was reported to have occurred in 1989. It should be understood, however, that in accordance with the Group's methods of work, the Government was not able to respond prior to the adoption of the present report.

59. By a letter dated 19 June 1992, the Working Group reminded the Government of Afghanistan of the four outstanding cases transmitted in the past. Since no response whatsoever was forthcoming; the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after seven years.

60. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

61. The newly reported case of disappearance was received from a relative of the missing person. The case concerned a Jordanian video journalist employed by the Al-Bunyan news agency based in Peshawar, Pakistan, who had disappeared during an assignment on 22 July 1989 near the city of Jalalabad, Nangarhar province, in Afghanistan, where he was reportedly abducted by Afghan forces.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	5
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses	0

Angola

Information reviewed and transmitted to the Government

62. The Working Group's activities in relation to Angola are recorded in its last nine reports to the Commission. 1/

63. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of Angola of the seven outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after nine years.

64. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	7
III.	Total number of cases transmitted to the Government by the Working Group	7
IV.	Government responses	0

Argentina

Information reviewed and transmitted to the Government

65. The Working Group's activities in relation to Argentina are recorded in its 12 previous reports to the Commission. 1/

66. During the period under review, the Working Group transmitted one newly reported case of disappearance to the Government of Argentina, which allegedly occurred in 1992. The case was transmitted by cable under the urgent action procedure.

67. By a letter dated 23 September 1992, the Government was notified that a case of a child who had disappeared with her parents and was subsequently located, in 1992, was considered clarified.

68. The Group also reminded the Government of Argentina, by a letter dated 19 June 1992, of all outstanding cases of disappearance that had occurred in that country during the period of military rule, indicating that, in accordance with its methods of work, those cases remained in the Working

Group's files as long as the exact whereabouts of the missing persons had not been determined. The Group stated that this principle included in its methods of work was not affected by changes of government in any given country. The Working Group observed that, for a long time, it had not received any relevant information from the Government on cases reported to it, and conveyed to the Government its wish to visit Argentina in order to examine in situ the obstacles and constraints encountered by the Government in the clarification of cases, with a view to formulating recommendations that would enable the Government to overcome such obstacles and make some progress in the investigations. In the same letter, the Group mentioned to the Government Commission resolution 1992/30, which requested the Group to draw attention to cases concerning children of disappeared parents and requested the Government to report on measures taken by it with a view to locating those children and protecting their physical and psychological health.

69. At its thirty-seventh session, the Working Group decided to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after seven years. At the time of the adoption of the present report, no new information on individual cases had been received. The Government only provided the Group with information related to children of disappeared parents which had already been submitted by non-governmental organizations or by the Government itself. The Group is, therefore, still unable to report on the fate or whereabouts of the 3,385 missing persons.

70. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

71. Reports on cases of disappearance and information on the question of impunity for those responsible for thousands of disappearances in Argentina were received from Amnesty International, Americas Watch, the Centre for Legal and Social Studies (CELS), the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM), the Grandmothers of Plaza de Mayo and the Mothers of Plaza de Mayo (linea Fundadora).

72. The case transmitted to the Government concerns a young man abducted by policemen in civilian clothes who took him to a police station close to the place of arrest. The case clarified by the source concerns a child who had disappeared in 1976 together with her parents. She was found in 1984 in the hands of a couple in which the man was a member of the security forces, who had registered the child under a false identity. While legal proceedings to determine the real identity of the child were under way, the couple left Argentina and the child disappeared again. In 1992, the couple was located by

INTERPOL in Buenos Aires and their detention was ordered by a judge. The victim is now 17 years old and her true identity has only recently been disclosed to her.

73. Non-governmental organizations also conveyed to the Working Group their concern that, for many years, the relatives of the missing persons have gone on hoping for an answer from the Government concerning the fate of their loved ones. They therefore continued to request the authorities to allow them to have access to the documentation and microfilms in the military, police and information services archives corresponding to the period of military dictatorship during which the disappearances occurred. According to the relatives, it is the State's duty to the Argentine people to solve the cases of disappearance, just as the opening of the archives relating to the entry of Nazi refugees into the country, which was recently authorized by the Government, was, in the President's words, a duty that Argentina owed to mankind. The need to put such documentation at the disposal of the public, particularly restricted, confidential and top secret documentation recorded by the agencies responsible for political repression during the period of military rule, was also stressed by the Chamber of Deputies of the province of Chaco, which issued a decision in that sense.

74. The information also indicated that, under various amnesty laws enacted by constitutional Governments and as a result of the pardon in December 1990 of the members of the military Juntas responsible for the disappearances, total impunity had been given the Government's stamp of approval. Consequently, the persons who committed horrible crimes were still free and some of them who were members of organized gangs went on committing criminal offences that were reported daily in the press. A particularly serious case was the complaint by the parents of six young men who alleged that their sons had been subjected to torture while they were on military service.

75. The Grandmothers of the Plaza de Mayo reported that, in a letter handed to the President during an interview they had with him, they had drawn attention to three trials relating to missing children in which the courts appeared to be acting in a biased way, without taking account of the right of children who had been located to know their true identity and decide whether they wished to live with their rightful family or with their abductors. In one of these cases, the identity of twins had apparently been reliably proved and the abductors were in prison charged with crimes relating to the children's abduction, but the judge had not taken the necessary measures to return the children to their family, which had been searching for them ever since they disappeared in 1977. In another case, the identity of the child in question had apparently been public knowledge since his disappearance in 1977, but the judge to whom his grandmothers applied at the time apparently decided to give him to one of his own friends instead of returning him to his rightful family. Proceedings against the judge and the lawyer who took charge of the child were apparently instituted in 1990, but so far with no results. The third case related to two children in the hands of a doctor, an Army Major involved in disappearances during the military dictatorship, who was in Paraguay; his extradition had allegedly been delayed by means of the courtroom tactics used by his lawyer and, although the proceedings had started three years earlier, had not yet been ruled on by Paraguayan justice. In this

case, the Grandmothers requested the Government to take immediate diplomatic steps to have the doctor and the children extradited rapidly.

76. The Grandmothers also requested the Government to take various measures, such as the establishment of an official committee to search for the missing children; to have prosecutors expedite court cases involving the return of children; and to allow the Grandmothers access to the military and police archives for the period during which the disappearances occurred so that they might help search for and locate the missing children.

Information and views received from the Government

77. By note verbale dated 20 May 1992, the Permanent Mission of Argentina to the United Nations Office at Geneva drew the attention of the Working Group to a ruling of a Federal Court of Appeal (Sala III de la Cámara Nacional de Apelaciones en lo Contencioso Administrativo Federal) in the case of a Swedish national who was abducted and disappeared in Argentina in 1977. The Court decided, taking into account the special circumstances of the case, to grant compensation to the victim's father in view of the moral damage caused to him by his daughter's abduction and disappearance.

78. By note verbale dated 14 September 1992, the Government provided information on the situation of 55 children who had been missing in the past and had been located. All the information contained in the Government's communication, as far as it concerned children included in the Working Group's files, had been previously submitted to the Group by the Grandmothers of Plaza de Mayo and reflected in previous reports to the Commission. Several cases mentioned in the list were known to the Working Group through different communications from the Government or submissions made by the Grandmothers, but had never been transmitted because a report on their disappearance was received only after the missing child had been located. Eight of the cases included in the list had not been clarified, because the identity of the children had not been clearly determined by scientific test, mainly because the appropriators had fled or refused to make such tests. In two cases, tests had not been made because the child's disappearance was not reported by his/her relatives, so that sample of their blood was not kept in the National Genetic Data Bank.

79. By a note verbale dated 25 November 1992, the Government provided information on a case transmitted to it in 1992. It stated that a thorough investigation was being carried out on this case and that four judicial officers at the police station where the missing person was taken after being arrested had been identified and arrested. In addition, the Provincial Chief of Police had resigned from his post and been replaced by another high-ranking police officer, who had taken steps to supervise directly the above-mentioned police station. Furthermore, a Human Rights Commission of the Provincial Parliament and the Under-Secretary for Human Rights of the Ministry of the Interior had also taken steps to follow up the judicial investigation.

80. The Working Group also received from the Government of Argentina a reply relating to the tentative considerations it had formulated in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	3,385
III.	Total number of cases transmitted to the Government by the Working Group	3,461
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	2,947
	(b) Cases clarified by the Government's responses a/	43
V.	Cases clarified by non-governmental sources b/	33

a/ Persons arrested and released: 13
Children located by non-governmental organizations: 19
Persons whose bodies were located and identified: 11

b/ Persons released from detention: 7
Children located : 9
Persons whose bodies have been located and identified: 17.

Bolivia

Information reviewed and transmitted to the Government

81. The Working Group's activities in relation to Bolivia are recorded in its 12 previous reports to the Commission. 1/

82. No cases of disappearance were reported to have occurred in 1992. By a letter dated 23 September 1992, the Government was notified that one case was considered clarified based on information provided by the source. The Government was also informed that on the basis of further information received from the sources, indicating that according to scientific expertise the body identified as that of Juan Carlos Flores Bedrega was in fact not his, the Working Group, at its thirty-seventh session, decided to reopen the case.

83. By letter dated 19 June 1992, the Working Group reminded the Government of Bolivia of the 28 outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after seven years.

84. In a letter dated 23 September 1993, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

85. The Association of Families of Disappeared Prisoners and Martyrs for Liberty provided the Working Group with information on the basis of which one case was considered clarified; the missing person had been released and later died of natural causes. It also submitted a report on the forensic expertise of a corpse, on the basis of which the Working Group decided to reopen one case of disappearance.

86. Non-governmental organizations also submitted information of a general nature in which it was reported that the present Government had not taken any steps to find out the whereabouts of the missing persons and that the activities of the National Commission of Investigation on Disappeared Detainees had not resumed since they were interrupted in 1985.

87. With regard to the cases outstanding before the Working Group, it was reported that they had all been denounced before criminal courts but no responsibilities had yet been established. In the framework of the trial on responsibilities against García Meza and his collaborators, the allegations made by the plaintiff regarding disappearances have been rejected, the reason invoked being that disappearance is not defined as a crime in the domestic law.

Information and views received from the Government

88. The Working Group received a reply from the Government of Bolivia relating to the tentative considerations formulated by the Group in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	28
III.	Total number of cases transmitted to the Government by the Working Group	48
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	33
	(b) Cases clarified by the Government's responses a/	19
V.	Cases clarified by non-governmental sources b/	1

a/ Persons released from detention: 18
Persons officially reported dead: 1

b/ Persons released: 1.

Brazil

Information reviewed and transmitted to the Government

89. The Working Group's activities in relation to Brazil are recorded in its last 11 reports to the Commission. 1/

90. During the period under review, the Working Group transmitted three newly reported cases of disappearance to the Government of Brazil which reportedly occurred in 1992. The cases were transmitted by cable under the urgent action procedure.

91. By a letter dated 23 September 1992, the Government was notified that one case was considered clarified on the basis of its reply. With regard to a second case for which the Government had provided a reply, the Working Group requested the Government, by a letter dated 19 June 1992, to inform it when and how the missing person had died and where he was buried.

92. By letter dated 17 July 1992, the Government was reminded of a report of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases; in the same letter, the Working Group informed the Government that it had received information from non-governmental organizations concerning steps taken by the Government for the identification of corpses found in unmarked graves and for the disclosure of archives belonging to a former security service, and stated that it was

encouraged by the fact that such measures had been taken, as they could lead to the clarification of cases of disappearance.

93. In a letter dated 23 September 1992 the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified. The Group also took steps for the protection of the mothers of 11 people, including six minors, who disappeared in July 1990 from a farm in Magé, Rio de Janeiro State. The mothers of the 11 persons had reportedly been threatened with death by the military police officers identified as responsible for the disappearances.

Information and views received from relatives of missing persons or from non-governmental organizations

94. The cases transmitted to the Government of Brazil during 1992 were received from Amnesty International and FEDEFAM. All such cases concern young men: one of them had recently reported that he had been subjected to torture and beating during a previous detention by the military police; the second one was with him when both disappeared; a third case concerned a young man who was in a meeting with six other persons and tried to run away and hide when the other persons were violently detained by the military police. In connection with those cases, non-governmental organizations reported that human rights workers and organizations specializing in the defence of the rights of children had been the object of intimidation and reprisals by death squads, formed by members of the police, who are generally accused of being responsible for systematic torture and murder of street children and are said to operate with impunity.

95. Information and statements of a general nature on human rights and disappearances in Brazil were received from Americas Watch, Amnesty International, FEDEFAM and the "Grupo Tortura Nunca Mais". These organizations reported that human rights organizations in Brazil had documented more than 120 disappearances between 1964 and 1989, but only a few of the cases had been clarified. A group of forensic scientists was working on the identification of the remains of more than 1,000 people found in the Perus cemetery of São Paulo, which were believed to belong either to political prisoners killed during the 1960s and 1970s, or to victims of death squads acting against criminal suspects during the same period. In addition, the Rio de Janeiro group Tortura Nunca Mais discovered that 16 of 118 persons killed or disappeared for political reasons during the same period were buried in the Ricardo de Albuquerque and the Cacuia cemeteries, both on the outskirts of the city. The discovery was the result of a long and intensive investigation carried out by the organization into the records and archives of public and private institutions and the press. A group of forensic physicians from the Medical Regional Council has been entrusted with the task of identifying the remains. Other branches of Tortura Nunca Mais, such as that in the State of Pernambuco, have also located cemeteries where persons killed or disappeared for political reasons had been clandestinely buried.

96. While efforts made by the Government to clarify cases of disappearance, including the disclosure of information recorded in the archives of the former National Information Service (SNI) of the military régime, were appreciated by

human rights organizations, concern has been expressed that access to such archives was limited and had been authorized only in the State of Sao Paulo and not in other States, where public access was requested. In addition, these documents remained in the hands of the Federal Police and had not been made public, as requested by relatives. According to Tortura Nunca Mais, other archives, such as those of the army, the navy and the air force security services, should also be made public.

97. Human rights organizations expressed great concern at the persistent failure to prosecute the perpetrators of human rights abuses which might encourage them to continue with their illegal activities and might be evidence of official acquiescence in the crimes.

98. In the case of 11 people, including six minors, who disappeared on 26 July 1990 from a farm in Magé, Rio de Janeiro State, after being abducted by a group of armed men, the intelligence section of the military police had identified the kidnappers as military police officers from the 9th Battalion in Rocha Miranda and detectives from the Cargo Theft Department (Delegaçia de Rouba e Fuertos de Cargo), 39th police station of Pavuana. However, no one had been brought to justice in connection with the crime. The mothers of the 11 missing persons, who had denounced the kidnappings and actively campaigned for an investigation, were reported to have received death threats from the military police officers responsible for their sons' disappearance.

Information and views provided by the Government

99. The Government provided, during 1992, information relating to two cases transmitted in 1985, which concern persons disappeared in 1970. In the first case, the Government indicated that the person's mortal remains had been found in a common grave at the Perús cemetery of Sao Paulo, identified by a group of forensic experts from the Legal Medicine Department of the University of Campinas, and returned to his family. In the second case, information disclosed from the archives of the former National Information Service (SNI) of the military regime had made it possible to establish that the person had been killed.

100. During its thirty-sixth and thirty-eighth sessions, the Working Group met with a representative of the Government of Brazil. In his statement, as well as in the notes verbales dated 23 December 1991 and 10 November 1992, the Government stated that the exercise of the constitutional right of "habeas data", on the basis of which the Government had been able to disclose information on some cases of disappearance, had contributed to the elucidation of those cases. The ongoing investigation which followed the exhumation of mortal remains in a common grave found in the Perús cemetery, which was widely praised by non-governmental organizations and the press for its seriousness and high professional level, reflected the interest of the Brazilian authorities and the Brazilian society in solving all pending cases of disappearance.

101. In addition to the above-mentioned cases, 1,049 skeletons found in the same cemetery had been submitted to the Legal Medicine Department of the University of Campinas and a Special Commission, established by the Sao Paulo

Municipal Chamber in 1990 in order to investigate relevant facts related to the common grave found in the Perús cemetery, was trying to identify the remains which were believed to belong to other political prisoners whose disappearance had been reported to the Working Group. It seemed, however, premature to assert that all such remains would be those of political prisoners or victims of death squads. Indigent individuals without any identification whatsoever had been also buried in the same pit, a practice that, according to the Special Parliamentary Commission established by the Sao Paulo Municipal Council, was aimed at concealing the skeletons of political prisoners and victims of death squads.

102. The Government also stated that according to the Vice-President of the Brazilian non-governmental organization "Grupo Tortura Nunca Mais", Rio de Janeiro section, the Vice-Governor and Secretary of Justice of that State was providing the necessary support for the research carried out into the records and archives of the State morgue (Instituto Médico Legal) and police organs with a view to elucidating the fate of missing persons. The Grupo Tortura Nunca Mais had found evidence that 16 missing political prisoners were buried in pits, together with indigent persons, in the Ricardo de Albuquerque and the Cacuia cemeteries in Rio de Janeiro State. The work of exhumation and identification of the remains was under way; relatives of missing persons and investigation commissions were being granted full and unimpeded access to the archives of the former Department of Political and Social Order (DOPS) not only in Sao Paulo but also in other States of the Federation.

103. In relation to the case of 11 people who disappeared on 26 July 1990 from a farm in Magé, Rio de Janeiro State, a police investigation had been opened but had not succeeded in elucidating the whereabouts of the missing young people. The police presumed that they had been killed but there was no material evidence since their bodies had not yet been found. In this connection, the Working Group had addressed to the Government a "prompt intervention" cable for the protection of the mothers of the 11 missing people, who had been threatened with death. The Government provided details on measures taken for the protection of the mothers, since their physical integrity could be at risk because they had denounced the kidnappings and campaigned for an investigation. Although it had been concluded that their lives were not under imminent and serious threat, the police had been instructed to provide any further protection that might be required.

Statistical summary

I.	Cases reported to have occurred in 1992	3
II.	Outstanding cases	49
III.	Total number of cases transmitted to the Government by the Working Group	52
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	50
	(b) Cases clarified by the Government's responses a/	3

a/ Persons detained: 2
Persons whose remains have been found and identified: 1.

Bulgaria

104. During the current year, the Working Group transmitted to the Government of Bulgaria, by letter dated 23 September 1992, three cases of enforced or involuntary disappearance which reportedly occurred in 1988. The cases were submitted by a relative of one of the missing persons and concerned ethnic Turks who had allegedly been sentenced to death, on 24 April 1988, by the High Court of Sofia because they had "refused to be Bulgarians". Following a commutation of the death sentence, they were supposedly sent to a forced labour camp; however, the relatives had obtained no information on their whereabouts after the trial.

105. At the time of the adoption of the present report, no information from the Government of Bulgaria had been received by the Working Group with regard to these cases.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	0

Burkina Faso

Information reviewed and transmitted to the Government

106. The Working Group's activities in relation to Burkina Faso are recorded in its last two reports to the Commission. 1/

107. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of the three outstanding cases transmitted in the past, expressing the hope that appropriate investigations would be undertaken by the competent authorities with a view to clarifying the fate and whereabouts of the missing persons. In a letter dated 26 June 1992, the Government asked for case summaries of the three outstanding cases. The Working Group transmitted this information by letter of 9 July 1992. However, despite a further reminder of the Working Group, dated 4 September 1992, the Government has not provided additional information on the above cases. At the time of the adoption of the present report, the Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

108. The Working Group also received a reply from the Government of Burkina Faso relating to the tentative considerations formulated by the Working Group in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	0

Burundi

Information reviewed and transmitted to the Government

109. During the current year the Working Group transmitted to the Government of Burundi, under the urgent action procedure, by cables dated 17 January and 12 February 1992, 23 cases of cases of enforced or involuntary disappearance which reportedly occurred in December 1991.

110. By letter dated 8 July 1992, the Permanent Mission of Burundi to the United Nations Office at Geneva asked for case summaries of the reported disappearances. The Working Group transmitted this information by letter of 17 July 1992.

111. By a letter dated 23 September 1992, the Working Group reminded the Government of the outstanding cases and transmitted allegations of a general nature it had received concerning the phenomenon of disappearance in Burundi or the solution of the cases not yet clarified.

112. At the time of the adoption of the present report, no information from the Government of Burundi had been received by the Working Group with regard to these cases.

Information and views received from relatives of missing persons or from non-governmental organizations

113. The newly reported cases were submitted by Amnesty International and concerned people held under military custody in Bujumbura and other parts of the country who had been arrested in late November and early December by members of the Burundi security forces in the aftermath of violent attacks which started in the country on 23 November 1991. The disappearance took place during their detention and all the efforts made by the families concerned to locate the missing persons had given no results. Amnesty International also submitted general information on the human rights situation in the country.

114. In 1990 the Government had created an ethnically balanced Security Council to oversee the security forces. Nevertheless, reports of disappearances had continued.

115. Subsequent to the November 1991 disturbances, during which police and army personnel were allegedly attacked by armed members of the Hutu tribe, the security forces had arrested large numbers of Hutu people, including civilians. They were detained on suspicion of being members of the illegal Hutu People's Liberation Party (PALIPEHUTU), which the security forces believed were responsible for the November violence. Many of those detained had since been released, but up to 60 persons had reportedly disappeared. Many of the disappearances were said to have occurred after the suspects were taken to Mura barracks, to the parachutists' barracks in Bujumbura or to the headquarters of the Special Investigation Brigade of the police in Bujumbura.

116. These disappearances had reportedly been facilitated by the ability of police officers to detain suspects without an arrest warrant, although they were required to submit a written report to the Public Prosecutor's office within 24 hours. The Public Prosecutor had the capacity to order the release of persons or to issue an arrest warrant. Sources reported that these norms were often disregarded in cases involving national security.

117. Sources reported that in regard to human rights violations, including the unacknowledged detention of persons, military and civil/criminal cases were dealt with in separate courts. Military tribunals, in principle, had jurisdiction only over military personnel and persons suspected of committing crimes against the military. Many of the persons detained who had subsequently disappeared were charged with having used arms against the military. However, if the case was believed to deal with State security matters, the accused could be brought before a military tribunal. In such cases, most of the legal safeguards considered important for the prevention of disappearances were not applicable.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	23
III.	Total number of cases transmitted to the Government by the Working Group	23
IV.	Government responses	0

Cameroon

118. During the current year, the Working Group transmitted to the Government of Cameroon, by cable dated 12 June 1992, six reported cases of enforced or involuntary disappearance, under the urgent action procedure. The cases were submitted by Amnesty International and concerned youngsters aged 13 to 17 who had been seen being taken into police custody in Bamenda in February 1992, at the time of arrest of leaders of the Cameroon Anglophone Movement and over 40 other peasants, following a peaceful demonstration.

119. At the time of the adoption of the present report, no information from the Government of Cameroon had been received by the Working Group with regard to these cases.

Statistical summary

I.	Cases reported to have occurred in 1992	6
II.	Outstanding cases	6
III.	Total number of cases transmitted to the Government by the Working Group	6
IV.	Government responses	0

Chad

Information reviewed and transmitted to the Government

120. The Working Group's activities in relation to Chad are recorded in its previous four reports to the Commission. 1/

121. During the period under review, the Working Group transmitted, by cable dated 8 January 1992, four newly reported cases of disappearance to the Government of Chad, under the urgent action procedure. A reminder concerning these new cases was addressed to the Government on 17 July 1992.

122. By letter dated 19 June 1992, the Working Group reminded the Government of one case transmitted in 1988 which remained outstanding. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working

Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the case, for which no information had ever been received, after four years.

123. At the time of the adoption of the present report, no reply to this last letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing person.

Information and views received from relatives of missing persons or from non-governmental organizations

124. The four newly reported cases were submitted by Amnesty International and concerned members of the Hadjerai ethnic group who had been arrested on 13 October 1991 by the Chadian security forces and had disappeared since; all efforts made by their relatives to trace them in various detention centres in N'Djamena were unsuccessful. The detention took place after the authorities announced, on 13 October 1991, that an attempt by a section of the Chadian armed forces to overthrow President Idriss Deby had been thwarted.

125. Independent sources in N'Djamena also reported that soldiers loyal to the Government killed and arrested many civilians solely because they came from the Hadjeraï ethnic group of Maldom Bada Abbas; some of those arrested were subjected to torture and others disappeared.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	5
III.	Total number of cases transmitted to the Government by the Working Group	6
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's responses	1

Chile

Information reviewed and transmitted to the Government

126. The Working Group's activities in relation to Chile are recorded in its previous 12 reports to the Commission. 1/

127. During the period under review, the Working Group transmitted to the Government of Chile 471 newly reported cases of disappearance that had occurred from 1973 to 1981.

128. By letters dated 19 June 1992, the Working Group reminded the Government of all outstanding cases. In the same letter, the Group conveyed to the Government its appreciation of the efforts made by the Truth and Reconciliation Commission (Comisión Verdad y Reconciliación) to clarify cases of disappearance. However, it stated that, in accordance with its methods of work, the Group retained cases on its files as long as the exact whereabouts of the missing persons had not been determined. The Group held that the responsibility of the State for disappearances was not affected by changes of Government in a given country. However, the Working Group accepted the closure of a case on its files when the competent authority specified in the relevant national law pronounced, with the concurrence of relatives and other interested parties, on the presumption of death of a person reported missing.

129. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

130. The newly reported cases of disappearance were submitted by the Vicaría de la Solidaridad of the Archbishopric of Santiago. They concern political opponents of the military dictatorship from different social strata who disappeared in different regions of the country between 1973 and 1981.

131. This organization and Americas Watch, Amnesty International, the Association of Relatives of Disappeared Detainees (Agrupación de Familiares de Detenidos Desaparecidos) and FEDEFAM provided information on general matters connected to disappearances, according to which, in Chile today, human rights were not abused as a matter of policy. However, despite the disturbing revelations and conclusions of the report of the Truth and Reconciliation Commission (known as the Rettig report) concerning violations of human rights committed in the past, and despite several statements by the President of Chile that the 1978 amnesty law should not be an obstacle to the investigation by the judiciary into the whereabouts of the disappeared persons, little progress had been made in the clarification of cases.

132. Although 31 of the persons whose remains were found in May 1990 had been identified and a further 123 found in unmarked graves in Patio 29 of the General Cemetery of Santiago were in the process of identification, the great majority of those corresponded to the period September-December 1973: no information was available on the persons who had been detained and disappeared after those dates, when the military Government followed a selective policy of persecution and elimination of members of the opposition. The courts were currently investigating cases of disappearance and efforts had been made by several judges to investigate past cases of serious human rights violations. However, very little progress had been made in determining the fate and the whereabouts of the missing persons and identifying those responsible for the disappearances. This was due to the following obstacles:

(a) Amnesty Decree-Law No. 2.191 of April 1978 was still in force and the Supreme Court sustained the interpretation that the courts should refrain

from investigating violations of human rights that had occurred during the period covered by that decree-law. This was an erroneous and biased interpretation, according to human rights lawyers representing the victims or their relatives;

(b) Legislation concerning the competence of the military tribunals had not been amended as requested by human rights organizations. When military personnel were charged or likely to be charged, military courts sought jurisdiction under broadly-worded article 5 (3) of the Code of Military Justice, and the case was deadlocked or the military defendant was acquitted. Combined with the amnesty granted by the military Government in 1978, which the Supreme Court invariably applied to terminate investigations into disappearances and summary executions, the military jurisdiction had ensured that, with few exceptions, human rights investigations and prosecution were not adequately pursued;

(c) In addition to the above-mentioned legislation, the lack of cooperation by the armed forces and carabineros, who refused to produce the information requested by the courts, was an important obstacle to the clarification of the disappearances.

133. The Working Group has received information about a case that reflected the constraints found in the prosecution of human rights violations in Chile. A lower court judge of Quillota had ordered an excavation within the grounds of the army's cavalry regiment there. The judge had reason to expect to find the remains of three men who had disappeared in January 1974, whom the military Government had accused of attacking a group of soldiers and escaping afterwards. The regimental commander refused the judge access, despite a law, passed by the new Government which authorized lower court judges to carry out preliminary investigative procedures on military property, and was charged with failure to cooperate with a judicial official. Military courts were granted jurisdiction over the case against the commander and in May 1992 the Supreme Court accepted two technical complaints against the judge of Quillota. The charge against the military officer was dismissed.

134. Attempts to overcome the 1978 Amnesty Act have been made, such as the legislative proposal placed, in April 1992, before Congress by members of the Senate to annul the effects of that law regarding grave abuses of human rights. In their presentation they argued that annulling the effects of the 1978 Law was in conformity with existing international human rights and humanitarian law. The above-mentioned proposal declared crimes against humanity, such as disappearance, to be outside the framework of amnesties or the statute of limitations. Organizations of victims' relatives were reported to be planning a national campaign in support of this legislation.

135. Some non-governmental organizations reported that they had learned that an agent of the former DINA (a security service) responsible for at least 80 disappearances in Chile during the first years of the military Government had been located in Brazil, where he was detained on charges related to false identity papers and illegal entry into the country. These organizations were now requesting, according to the report, that this agent be extradited and that he should be tried in Chile by a civil court for crimes committed in Chile.

Information and views received from the Government

136. The views of the Government of Chile on the question of disappearances in that country were provided in several written communications and at a meeting held by a representative of the Government with the Group at its thirty-eighth session. By a note verbale dated 3 December 1991, the Permanent Mission of Chile to the United Nations at Geneva forwarded to the Working Group a reply given by the Acting Minister of Foreign Affairs of Chile to allegations transmitted to it in September 1991 and information on the investigations carried out by the Commission for Truth and Reconciliation on six cases transmitted by the Working Group: one of those cases had not been reported to the Commission in Chile. The other five cases were in the records of the Commission, but were still unresolved. In this note verbale it was stated, inter alia, that all cases examined by the Working Group had occurred under the military regime that ruled the country from 11 September 1973 to 11 March 1990. It was a regime known to the Commission for its practice of gross violations of human rights, particularly enforced disappearances. During the entire period that the regime was in power, the Commission had adopted resolutions, on valid grounds, condemning the practice of causing detained persons to disappear.

137. The present Government, on the other hand, had shown scrupulous respect for human rights and had even established a National Commission for Truth and Reconciliation, for the very purpose of establishing the truth about what occurred during the previous regime. That Commission had published a lengthy report, which was in the possession of the Centre, and which examined both the overall situation of the disappearance of detained persons during the military regime and each individual case.

138. It was true that in a few cases the National Commission was not convinced that detentions and enforced disappearances were involved, but that was not the responsibility of the democratic Government, since in some cases families did not submit reports at the proper time or gave very little information when they did so. The Group should take into account the fact that when reports were made more than 10 years after the event, it was impossible, or at least very difficult, for them to be elucidated by a commission with no legal competence and, furthermore, in an area where the malefactors had acted with an impunity guaranteed by the State.

139. With reference to allegations transmitted by the Working Group, the Minister stated that it was a fact that the military system of justice had been extended during the regime headed by General Pinochet to cover most of the offences committed by military or police personnel, and that military courts had always been reluctant to investigate and punish violations of human rights committed by such personnel. It was also true that judges who were impartial in their investigations of such cases were sanctioned by the Supreme Court and that said Court had continued to assert the competence of the military courts to investigate and punish cases of detention-disappearance, as occurred in the case, cited by the Group, of the corpses discovered in Pisagua.

140. It was, furthermore, a fact that many investigations had been closed, in application of the Amnesty Act, before being concluded. The report was

accurate in stating that the Government had been trying to bring about a change in the position of the Supreme Court on the application of the Amnesty Act, and that, although its efforts enjoyed popular support, they had been unsuccessful. However, the Government was bound to respect the independence of the judiciary, even if it did not agree with its decisions. These were the rules of democracy and of a State governed by the rule of law.

141. By a note verbale dated 6 August 1992, the Government transmitted a copy of the report of the National Commission for Truth and Reconciliation, to which the present Government entrusted the task of finding out what had happened in each of the cases of serious violations of human rights committed in Chile between September 1973 and March 1990 by officials or other persons acting with the acquiescence of the authorities resulting in the death or disappearance of the victim. A copy of Act No. 19.123, which had been in force since 8 February 1992, was also attached. This act established the National Corporation for Reparation and Reconciliation, whose objective was to "promote and cooperate in actions tending to determine the whereabouts and circumstances of the disappearance or death of the disappeared detainees and of those whose remains had not been located, although legal recognition of their decease existed". The National Corporation aimed at granting compensation to the relatives of the victims. Under this Act, in addition to a one-time compensation and annuities, the State met the health and education costs of the relatives of the victims and also granted the children of the victims exemption from compulsory military service.

142. In a note verbale dated 18 August 1992, the Government referred to the fate of disappeared detainees, indicating that the National Commission for Truth and Reconciliation had conducted an exhaustive investigation on those cases and reached the following conclusions: "After considering all available background information on the individual cases and their context, this Commission concluded that it was its moral duty to state its belief that, in all cases of disappearance received as such, the victims are dead and died at the hands of State agents or persons in their service, who disposed of their mortal remains by throwing them into some river or the sea or burying them clandestinely or in some other secret way". The Government of Chile thus believed that all the cases that appeared as "detained/disappeared" should be considered as resolved through the death of the person in question.

143. The Group also received from the Government of Chile a reply relating to the tentative considerations it had formulated in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	933
III.	Total number of cases transmitted to the Government by the Working Group	939
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	12
	(b) Cases clarified by the Government's responses a/	1
V.	Cases clarified by non-governmental sources b/	5

a/ Persons released: 1

b/ Persons released: 1
Persons dead (body found and identified): 4.

China

Information reviewed and transmitted to the Government

144. The Working Group's activities in relation to China are recorded in its previous three reports to the Commission. 1/

145. During the period under review, the Working Group transmitted three newly reported cases of disappearance to the Government of China, of which one was reported to have occurred in 1992. All of those cases were transmitted by cable under the urgent action procedure. The Group also retransmitted to the Government a total of five cases, requesting further information on the place where the persons concerned were held in detention.

146. By letters dated 19 June and 23 September 1992, the Government was notified that eight cases were considered clarified, seven based on its replies and one on the basis of further information provided by the sources. By a letter dated 15 December 1992 the Government was also informed that in two cases the Group had applied the six-month rule.

147. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letters dated 19 June and 23 September 1992, the Working Group reminded the Government of all outstanding cases.

148. In a letter dated 23 September 1992, the Working Group informed the Government of reports it had received about developments in China having an influence on the phenomenon of disappearance or on the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

149. The newly reported cases of disappearance were submitted by the Minority Rights Group (MRG) and Amnesty International. The forces said to be responsible were the Public Security Department, the National Police, and the People's Armed Police. The above-mentioned organization also provided information on the basis of which one case has been considered clarified; the missing person was released and is now back with his family.

150. In addition, the same organization and Asia Watch submitted information on the general situation in the country. It was reported that hundreds of political prisoners were held in detention centres without charges. This prolonged detention was allowed by regulations on administrative detention without judicial approval or review and also by illegal practices tolerated by the Government. Police had been given the power to detain suspects without a judicial warrant for renewable periods of three months.

151. The use of the death penalty had dramatically increased. Statistics on the death penalty were not published by the authorities. Courts were ordered to impose severe sentences using 1983 legislation which provided for summary procedures and it often occurred that sentences were decided before the procedure.

152. Executions after summary procedures, secret trials and detention without a judicial warrant resulted in the alleged disappearance of hundreds of political prisoners after their arrest. Lists of prisoners released by the Government often contained the names of persons whose detention had not previously been acknowledged. There was very little information about some prisons and about the network of "reform through labour" camps believed to house, in the Tibet Autonomous Region alone, a total of 7,000 to 8,000 prisoners of all kinds.

Information and views received from the Government

153. By notes verbales dated 6 August and 6 November 1992, the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva provided information on three cases of disappearance previously transmitted by the Working Group. It also provided additional documentation on questions related to disappearances. The Government reported that in two cases the missing persons had been detained; one was undergoing investigation and the other was serving an eight-year sentence in Lhasa prison. In another case the person concerned had been arrested and released, and lived with her family.

154. In its note verbale dated 6 November 1992, the Permanent Mission of China provided comments on the allegations contained in the Working Group's letter of 23 September 1992. It stated, inter alia, that: "there were no

'political' prisoners in China; thought without deed does not constitute a crime; no one may be subjected to criminal penalties simply for holding dissenting political views. The 'counter-revolutionary crimes' defined in Chinese criminal law are crimes which endanger the security of the State: for example, plotting the overthrow of the Government or the division of the country, or engaging in armed mass rebellion, or spying".

155. It was also said that Chinese legislation prohibited unlawful taking into custody or other forms of encroachment or limitation on the citizen's right to life. Under the law, the public authorities had the right to detain people, but only with a warrant of arrest authorized by a people's procuratorate; if the people's procuratorate did not approve the arrest, the public authorities were obliged, upon receiving that information, to immediately release the individual concerned. It was further stated that China had retained the death penalty, but had imposed extremely strict limits on its use. According to the Chinese Penal Code "the death penalty shall be applied only to the most heinous criminal". When a capital case was tried other than in the Supreme People's Court, after the Court of second instance had rendered final judgement the matter had to be referred to the Supreme People's Court or to a higher people's court duly empowered by the Supreme Court, for a thorough review of the facts, evidence, verdict, sentence and procedure during the trial. Only after ratification did the sentence acquire legal force. If, after ratification of the death sentence, the lower court discovered a possible error, the execution must be stopped and the matter immediately referred to a duly empowered higher people's court or the Supreme People's Court for ruling.

156. It was also said that Chinese courts operated on the open hearing system. Except in cases involving State secrets, individual privacy, cases relating to minors, all cases must by law be tried in open courts and outsiders were permitted to attend. All judgements must be delivered in open court and the defendant had the right to a defence and the right to appeal.

157. The Working Group also received a reply from the Government of China relating to the tentative considerations formulated by the Working Group in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	35
III.	Total number of cases transmitted to the Government by the Working Group	46
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	41
	(b) Cases clarified by the Government's responses a/	8
V.	Cases clarified by non-governmental sources b/	3

a/ Persons released: 5
Persons at liberty: 3

b/ Persons in prison: 2
Person released: 1.

Colombia

Information reviewed and transmitted to the Government

158. The Working Group's activities in relation to Colombia are recorded in its last seven reports to the Commission, 1/ as well as in the report on the visit to the country which took place in 1988 (E/CN.4/1989/18/Add.1).

159. During the period under review, the Working Group transmitted 45 newly reported cases of disappearance to the Government of Colombia, of which 41 were reported to have occurred in 1992. Forty-two of those cases were transmitted by cable under the urgent action procedure.

160. By letters dated 19 June and 23 September 1992, the Government was notified that 26 cases were considered clarified, 13 based on its replies and 13 on the basis of further information provided by the sources; in the same letter of 19 June 1992, the Working Group also reminded the Government of all the outstanding cases transmitted in the past.

161. By letters dated 15 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure.

162. In a letter dated 23 September 1992, the Working Group informed the Government of reports it had received about developments in Colombia having an influence on the phenomenon of disappearance or the solution of the cases not yet clarified.

163. In accordance with resolution 1992/59, the Working Group sent to the Government of Colombia a "prompt intervention" cable requesting protection for the relative of a missing person who had been threatened.

Follow-up on observations and recommendations made by the Working Group after its visit to Colombia in 1988

164. In accordance with a decision taken by the Working Group at its thirty-fourth session, a letter dated 23 September 1992 was sent to the Government as a follow-up on the observations formulated by the Working Group in its report on the 1988 mission to the country, containing new questions involving substantive issues and measures recommended by the Group. These questions referred in particular to the alleged links between members of paramilitary groups and members of the security forces in the perpetration of disappearances; the prosecution and punishment of those responsible for carrying out disappearances; the functioning of the habeas corpus procedure; the compensation to relatives of missing persons and the proceedings in the identification of bodies found in unmarked graves.

Information and views received from relatives of missing persons or from non-governmental organizations

165. The majority of the newly reported cases of disappearance were submitted by Amnesty International and the Association of Relatives of Disappeared Detainees (ASFADDES); those often cited to be responsible were the Army and groups of armed men in civilian clothes believed to be linked to government forces. The departments of Colombia mostly affected were Meta, Santander and Valle.

166. According to the information received from several non-governmental sources, which frequently cited the figures contained in the report of the Office of the Procurator-General of the Nation, disappearance - as part of the general phenomenon of violence - had not declined in Colombia. This would appear to be largely due to the phenomenon of impunity, which, in connection with political violence, reportedly continued to assume alarming proportions.

167. It was reported that there was a willingness on the part of the Government and the armed forces themselves to rid the latter of persons involved in ordinary crimes related to drug trafficking and in various forms of corruption, and other groups of offenders. In these cases, the investigations were carried out promptly, no major obstacles were set up and the military personnel concerned were dismissed from the service. While the legal machinery would appear to function efficiently in these cases, this did not happen in connection with the supervision and punishment of senior officers, non-commissioned officers, ordinary soldiers and policemen whenever the acts under investigation jeopardized law and order activities or military operations to combat armed subversion; in these cases action had been taken against defenceless citizens and force had been misused. This would appear to be the case with the decision of the Procurator-Delegate for the Armed Forces, which had exempted from charges the officers involved in the disappearance of 43 peasants in the area of Puerto Bello, Antioquia, in January 1990,

despite the wealth of evidence pointing to the failure of military units to arrest the members of the paramilitary group responsible for the disappearance.

168. It was also reported that during the past four years the Inter-American Commission on Human Rights had decided to condemn the Colombian Government in four cases of disappearance (one of them involving a group of people). At the national level, only one of those cases gave rise to criminal penalties (two years' imprisonment) and another gave rise to disciplinary penalties (suspension). In none of those cases did the families concerned receive compensation; the bodies had not been returned to them and it had not been possible to establish what had happened to the persons who had disappeared. This situation of impunity would appear to be fostered by the constitutional provisions relating to military penal jurisdiction, since the officers who had ordered or participated in the perpetration of abuses were the very ones responsible for judging the conduct of their subordinates.

169. In connection with the activities of the paramilitary groups, and contrary to the official versions reporting their gradual demobilization, the Group received information to the effect that they were still active and indeed had grown in strength in several areas of the country, such as Antioquia, Putumayo, Risaralda and Chucurí (Santander). Furthermore, it had received copies of recent confessions by former members of these groups which made quite clear their connection with military and police commands and units.

170. According to information received, the possibility of making an application for habeas corpus as a means of protection for possible victims of enforced disappearance has been increasingly restricted. The Statute for the Defence of Democracy established that the application would be dealt with only if the relatives had specified the unit in which the person concerned was being detained - information which could hardly be given in the case of disappeared persons. Later, in accordance with the Statute for the Defence of Justice, the application could be made before a criminal or mixed court, but the only court competent to decide on it was the Higher Court of Public Order, which exists only in Bogotá. Decree No. 1156/92 of 10 July 1992, issued under the state of internal unrest, totally forbade such applications in cases related to drug trafficking or insurgent activities, concepts which continued to be vague. Furthermore, the remedy of protection (remedy of amparo for the protection of fundamental rights, provided for in the Constitution) could not be used as a protective mechanism in a case of arbitrary arrest, which might result in disappearance.

171. As regards the Defensor del Pueblo (Ombudsman), concerning whom regulations were still to be issued, it was reported that his role would apparently be confined to requesting information of a non-confidential character from the authorities and submitting reports on the cases he had investigated.

172. It was also reported that the National Plan for the Identification of NNs (bodies found but not identified) published by the Government in 1989 had not yielded results. The procedures for the identification and handling of bodies found in these circumstances which would enable the whereabouts of the missing persons to be established more quickly were totally ineffectual. So far no

identification mechanism had been established that would guarantee the ability of forensic teams, human rights organizations and relatives to act quickly and efficiently in any case of exhumation.

173. Despite the expressed intent of the national Government to permit the free pursuit of the activities of the non-governmental human rights organizations, the current year had reportedly witnessed several attacks on the lives and personal integrity of defenders of human rights in which State officers would appear to be involved and in which the authorities had failed to do enough to protect their lives and personal integrity and to ensure the unimpeded performance of their work.

Information and views received from the Government

174. In the course of 1992 the Government provided replies on 27 cases of disappearance by different notes verbales. Some of them indicated that the cases were being investigated by the competent authorities; others mentioned the fact that the cases had not been denounced to the authorities or that more details were needed in order to initiate the investigation. In connection with other cases, the Government stated that the person concerned had been released or had never been detained, or that the detention had been acknowledged. As indicated above, 13 replies led to the clarification of the corresponding cases.

175. By note verbale dated 3 January 1992, the Government replied to the Working Group's letter of 30 August 1991 containing a number of questions involving issues recommended by the Group in its report on the 1988 mission to the country. It was stated that in 1989 the Government had enacted a number of measures to combat paramilitary violence. Decrees Nos. 813, 814 and 815 of 1989, which were enacted as permanent legislation by Decrees Nos. 2253 to 2254 of 1991, prohibited the formation of any paramilitary group by State agents; the decrees suspended Act No. 48 of 1968 which authorized the Ministry of National Defence, through the authorized commands, to allow weapons intended exclusively for the armed forces to be used as private property; they created a special National Police corps called the "élite corps" to combat the paramilitary groups and the gangs of hired assassins, and set up a committee of senior army officers and government officials to formulate and recommend general policies for action against such groups. The Government informed the Working Group that it was also determined to pursue a policy to control the weapons trade and so curb the possession of weapons by civilians. To that end, a bill would be submitted to the National Security Council which set forth the bases of a plan for disarming the civilian population. At the end of 1990 and throughout 1991, there occurred the voluntary surrender of weapons and the demobilization of a number of self-defence groups against which no proceedings had been instituted for criminal acts. In 1991 there was a drastic reduction in the new cases of mass murders of the peasant population. Furthermore, the investigations conducted by the law against the persons responsible for the massacres had resulted in long prison sentences for the perpetrators of those heinous crimes.

176. On the basis of article 284 of the Constitution and under Act No. 4 of 1990, the Ombudsman, the Attorney-General of the Nation and any official in his Office had complete freedom to travel to the installations of the security

agencies, to places of detention and to barracks, wherever they might wish, in order to conduct without delay the investigations that were essential to clarify acts that violated the freedoms of citizens.

177. Members of the armed forces and National Police enjoyed a special status, since they were tried by military appeal courts or military courts governed by special provisions different from those of the judicial branch of government. However, the Supreme Court of Justice, after repeated rulings and judgements that had formed a body of case-law on the matter, had set the boundaries of the military courts' competence to judge and punish improper conduct by members of the armed forces. Ordinary offences committed by members of the armed forces, aside from acts committed while on duty, were tried by the ordinary courts and their perpetrators were subject to the rules applicable to individuals. With regard to violations of human rights by members of the armed forces, in 1990, 17 officers were removed from their posts at the request of the Office of the Attorney-General for acts constituting violations of human rights, as well as a large number of ordinary soldiers and non-commissioned officers.

178. Legislative Decree No. 2790 of 20 November 1990, called the Statute for the Defence of Justice, stipulated that the identity of magistrates and judges presiding over trials should be kept confidential. In this way an offender had no opportunity to influence the judge or magistrate. It was hoped that this would put an end to that factor, which seriously limited independence in the administration of justice.

179. The State's growing interest and concern, in particular regarding enforced disappearances, had been reflected in the measures being adopted concerning them. The National Criminal Investigation Department, established by decision No. 20094 of 4 October 1990, the National Human Rights Unit and the sectional units in the worst affected areas of the country, coordinated, together with other bodies, national policies and the internal monitoring of investigations into violations of human rights. Programmes for training the staff of the Technical Branch of the Judicial Police and the investigators of the Department had been started, and an agreement had been concluded with the School of Public Administration (ESAP) to develop and extend this training.

180. Furthermore, in a joint effort under the responsibility of the Office of the Government Attorney for Human Rights, in mid-September the Office of the Attorney-General of the Nation had made public a detailed report on the human rights situation in Colombia during 1990-1991. The report refers to the 3,087 complaints concerning human rights violations that had been received during the period from January 1990 to April 1991 and whose possible or proven authors were law enforcement officials. The figures gave the following results: first, that 61 out of the 622 disciplinary proceedings instituted against members of the armed forces charged with having committed human rights violations ended in the conviction of those responsible; secondly, that in disciplinary proceedings against members of the National Police 505 lists of charges had been drawn up, 281 serving members were found guilty and 84 acquitted out of a total of 1,735 reported cases. During the period under consideration, complaints were received relating to 465 cases involving 616 alleged victims of disappearances. Five members of the armed forces were

convicted as were five members of the National Police. In addition, 30 lists of charges had been drawn up against other members of State security bodies.

181. As laid down in the Statute for the Defence of Justice, the armed forces did not have detention centres since they did not have the authority to hold persons in detention as they were not branches of the Judicial Police. Even so, clear and precise instructions in this sense had been given in various documents to all the forces under the supervision of the General Command and through the General Inspectorate of the Armed Forces and the General Inspectorates of each one of the forces.

182. A "Support for the Relatives of Victims of Violence Foundation" had recently been established, devised as a method of rehabilitation for the people affected by the various kinds of violence occurring in Colombia. The purpose of the Foundation was to use the resources and assets in its possession to promote humanitarian support for the families of victims of violence. Its activities focused, inter alia, on the economic, educational, psychological and employment spheres and were planned and oriented towards compensating victims for the social and economic injuries sustained and incorporating them into the mainstream of national, social and economic life if they had been displaced or isolated by acts of violence.

183. With regard to the question of threats and harassment against relatives of victims, witnesses of violations of human rights, lawyers and members of human rights organizations, the Government stated, inter alia, that whenever the Office of the Presidential Adviser for the Defence, Protection and Promotion of Human Rights learned of any complaints made by national or international agencies or by the person concerned, about threats or retaliation, it invariably contacted State investigative and security organs and studied various protection measures and mechanisms in order to provide the most suitable system of protection, in the light of what the petitioner considered to be appropriate.

184. The Working Group also received a reply from the Government of Colombia relating to the tentative considerations formulated by the Group on the question of impunity.

185. On 24 July 1992, the Government of Colombia transmitted information in connection with Commission resolution 1992/42 on consequences for the enjoyment of human rights of acts of violence committed by armed groups that spread terror among the population and by drug traffickers. According to the Government, during 1991 a total of 1,408 civilians had been kidnapped, out of whom 483 had not been released yet and 129 had died; 352 cases were characterized as common crimes, whereas in 131 cases the guerrillas were considered responsible. The areas of the country most affected by this practice were the departments of Antioquia and César.

186. As for the members of the forces of order, it was reported that 303 members of the armed forces had been kidnapped by guerrilla groups during 1991.

Statistical summary

I.	Cases reported to have occurred in 1992	41
II.	Outstanding cases	685
III.	Total number of cases transmitted to the Government by the Working Group	870
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	663
	(b) Cases clarified by the Government's responses a/	143
V.	Cases clarified by non-governmental sources b/	42

a/ Persons at liberty: 35
Persons released: 59
Persons in prison: 9
Persons dead: 39
Persons abducted by rebels: 1

b/ Persons at liberty: 2
Persons in prison: 5
Persons released: 22
Persons dead: 13.

Cuba

Information reviewed and transmitted to the Government

187. The Working Group's activities in relation to Cuba are recorded in its ninth and tenth reports to the Commission. 1/

188. During the period under review, the Working Group transmitted one newly reported case of disappearance to the Government of Cuba, which was said to have occurred in 1990. It was submitted by the mother of the missing person and concerned a Polish citizen who had travelled to Havana and was reportedly arrested by the Cuban secret services, who put her under house arrest. According to the source, she was last seen at a police station at Trinidad de Cuba on 6 March 1990.

189. By letter dated 1 September 1992 the Government replied that this person had not been detained; she had been assassinated by two ordinary citizens, who were subsequently sentenced to 20 years' imprisonment. The Group, however, requested the Government to provide information about the place where the body had been buried, so that the victim's mother could be precisely informed.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	2
IV.	Cases clarified by the Government responses a/	1

a/ Persons dead: 1.

Cyprus

190. The Working Group's activities in relation to Cyprus are recorded in its 12 earlier reports to the Commission. 1/

191. As in the past, the Working Group continued to remain available to assist the United Nations Committee on Missing Persons in Cyprus but was not so requested. The Working Group noted that in 1992 the Committee, whose activities were based mainly on the testimony of witnesses and investigations in the field, had held 10 sessions involving 35 meetings during which it continued to examine the reports presented to it by the investigative teams under the responsibility of each side.

192. In his report of 31 May 1992 to the Security Council, the Secretary-General made reference to a number of actions which he felt were essential to make the work of the Committee more effective. These included the submission of all cases of missing persons to the Committee for investigation, discussion as to the modalities of determining criteria to be applied to the evidence, and consideration as to how relevant information could be shared with the families concerned.

193. The Secretary-General also intimated that a continued lack of progress in the Committee on these points would necessitate a fundamental review of that body.

Dominican Republic

Information reviewed and transmitted to the Government

194. The Working Group's activities in relation to the Dominican Republic are recorded in its previous seven reports to the Commission. 1/

195. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of one case transmitted in the past which remained outstanding. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working

Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the case for which no information had been received, since 1989.

196. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing person.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	3
V.	Cases clarified by non-governmental sources a/	2

a/ Persons released from detention: 1
Persons living abroad: 1.

Ecuador

Information reviewed and transmitted to the Government

197. The Working Group's activities in relation to Ecuador are recorded in its last five reports to the Commission. 1/

198. During the period under review the Working Group transmitted to the Government under the urgent action procedure one case, which allegedly occurred in 1992. By a letter dated 19 June 1992, the Group retransmitted to the Government a total of three cases containing additional information received from the source; in the same letter, the Working Group reminded the Government of all outstanding cases.

199. In accordance with Commission on Human Rights resolutions 1991/70 and 1991/41, the Working Group took action to ensure the protection of the legal counsel for the family of two disappeared persons. A prompt intervention cable was sent to the Government of Ecuador on 23 January 1992.

Information and views received from relatives of missing persons or from non-governmental organizations

200. The newly reported case of disappearance was submitted by Amnesty International, which alleged that the victim had been detained by members of the National Police under their policy of "social cleansing".

Information and views received from the Government

201. In a note verbale dated 7 May 1992, the Government assured the Chairman of the Working Group that it had taken specific measures to protect the lives of the persons referred to in the above-mentioned "prompt intervention" cable; it also reminded the Group of legal steps taken by the government authorities to prevent disappearances.

202. By notes verbales dated 30 April and 22 May 1992, the Government informed the Working Group that legal proceedings had been initiated against the members of the National Police believed to be implicated in a case of disappearance.

203. The Working Group also received a reply from the Government of Ecuador relating to the tentative considerations formulated by the Group in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1991	1
II.	Outstanding cases	6
III.	Total number of cases transmitted to the Government by the Working Group	17
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	16
	(b) Cases clarified by the Government's responses a/	9
V.	Cases clarified by non-governmental sources b/	2

a/ Persons in prison: 2
Persons arrested and extradited to Peru: 2
Persons dead: 3
Persons living abroad: 1
Persons escaped from detention: 1

b/ Bodies located and identified: 1
Persons at liberty: 1.

Egypt*

Information reviewed and transmitted to the Government

204. The activities of the Working Group in relation to Egypt are recorded in its six previous reports to the Commission. 1/

205. During the period under review, the Working Group transmitted two newly reported cases of disappearance to the Government of Egypt, which allegedly occurred in 1990. By letter dated 15 December 1992, the Government was informed that one case had been clarified on the basis of information provided by it.

206. By letter dated 25 January 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June the Working Group reminded the Government of all outstanding cases.

Information and views received from relatives of missing persons or from non-governmental organizations

207. The newly reported cases of disappearance were submitted by Amnesty International and concerned two nationals of the Libyan Arab Jamahiriya resident in Egypt, who were believed to be members of the National Front for the Salvation of Libya. They had reportedly been summoned for questioning in early March 1990 by the State or Security Intelligence Service and were missing since.

Information and views received from the Government

208. In a note verbale dated 27 March 1992, the Permanent Mission of Egypt to the United Nations Office at Geneva informed the Working Group that in one case of disappearance previously transmitted by the Group, the person concerned had been arrested and was being held at the Turan public prison pending judgement.

209. The Working Group also received from the Government of Egypt a reply concerning the tentative considerations formulated by the Working Group in relation to the question of impunity.

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* Mr. Toine van Dongen did not participate in the decisions relating to this subsection of the report.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group	6
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	2
	(b) Cases clarified by the Government's responses a/	2

a/ Persons in prison: 2.

El Salvador

Information reviewed and transmitted to the Government

210. The Working Group's activities in relation to El Salvador are recorded in its last 12 reports to the Commission. 1/

211. During the period under review, the Working Group transmitted 17 newly reported cases of disappearance to the Government of El Salvador, of which one was reported to have occurred in 1992. Seven of those cases were transmitted by cable under the urgent action procedure.

212. By letters dated 19 June and 15 December 1992, the Government was notified that five cases were considered clarified, four based on its replies and one on the basis of further information provided by the sources.

213. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By a letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases.

214. In a letter dated 23 September 1992, the Working Group also informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearances in El Salvador or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

215. The majority of the newly reported cases of disappearance were submitted by the Archbishopric Legal Aid (Tutela Legal Arzobispado de San Salvador) and the non-governmental Commission on Human Rights in El Salvador (CDHES). The forces often cited to be responsible were the National Police, the National

Guard and military agents. These organizations also provided information on the basis of which one case has been considered clarified: the missing persons have been located.

216. According to non-governmental organizations, the creation of the United Nations Observer Mission in El Salvador (ONUSAL) had been widely welcomed by the international community and had raised great expectations in El Salvador of putting an end to the violations of human rights and humanitarian law. This operation had contributed to a reduction in the number of human rights violations since July 1991. Some non-governmental organizations expressed the view that ONUSAL should broaden its activities and be deeply involved in the reform of the police, military and judicial systems, which would have a decisive impact on the observance of human rights once it left the country.

217. Apart from ONUSAL, two commissions were established under the peace accords to put an end to impunity: the ad hoc Commission, and the Truth Commission. The ad hoc Commission began reviewing the records of military officers with a view to purging those who had committed or tolerated human rights abuses. The Truth Commission began in July 1992 its six-month task of reviewing "grave acts of violence which have occurred since 1980" whose impact on society was such that the public needed to know the truth.

218. Concern had been expressed about the role of both commissions. On the one hand, since the information gathered by human rights groups during the war occasionally pointed to specific military units but rarely to specific officers, it was up to the armed forces and other branches of the Government to provide the ad hoc Commission with the relevant information on individual responsibility for abuses; the information offered so far had allegedly been very superficial or lacking human rights criteria.

219. The Truth Commission was expected to produce within six months a report on violations of human rights that had occurred since 1980. Thus, it would also depend mainly on the cooperation received from the Government, although non-governmental organizations could effectively contribute information to it. However, the results of its work might be undercut by amnesties passed for political reasons, such as the Law of National Reconciliation approved by the Legislative Assembly in January 1992, which exempted cases for which the Truth Commission might recommend prosecution, as well as those cases which had been decided by a jury trial (as had the Jesuits case). However, the amnesty law allowed the Legislative Assembly to review the amnesty six months after the Truth Commission completed its work.

220. Non-governmental organizations stated that thousands of cases of disappearance, summary execution and torture committed by government forces had occurred since 1980. The vast majority of those cases had never been investigated, nor had those responsible been brought to justice, thus creating a climate of impunity which had served to encourage the continuing violation of human rights. Even in cases that were formally investigated there were serious irregularities brought about by the lack of will to bring armed forces personnel to justice. In this context, concern was also expressed about the inability of the judicial system to carry out investigations and to prosecute and punish those identified as responsible for crimes involving human rights

violations. According to those sources, the whole criminal justice system was characterized by inefficiency and slowness when cases of violent death or disappearance were brought to it. In view of this, Salvadorian civilians lacked basic trust in governmental institutions and authorities.

Information and views received from the Government

221. By letters dated 6 February 1992, the Government provided information on two cases of disappearance previously transmitted by the Working Group under the urgent action procedure: the missing persons had been detained and later released.

222. The Working Group took note of 16 notes verbales transmitted by the Government of El Salvador providing information, in chronological order, on a series of acts carried out by FMLN against the life and property of civilians and members of the armed forces during 1992. In these reports details are given of the stealing of food, money, vehicles, fuel and machines as well as of threats to civilians in order to obtain their cooperation or support for FMLN activities. In addition, the abduction and killing of some deserters or alleged traitors is reported.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	2,219
III.	Total number of cases transmitted to the Government by the Working Group	2,598
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	520
	(b) Cases clarified by the Government's responses a/	318
V.	Cases clarified by non-governmental sources b/	61

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a/ Persons dead: 4
Persons in prison: 160
Persons released from detention: 142
Persons at liberty: 5
Persons abducted by rebels: 1
Persons in court: 5
Persons in hospital: 1

b/ Persons dead: 10
Persons released from detention: 37
Persons at liberty: 5
Persons in prison: 9.

Ethiopia

Information reviewed and transmitted to the Government

223. The Working Group's activities in relation to Ethiopia are recorded in its last 11 reports to the Commission. 1/

224. During the year under review, the Working Group received two newly reported cases of disappearance, which were transmitted to the Government under the urgent action procedure. They occurred in 1992 and were reported by the United Nations Information Centre in London.

225. By a letter dated 19 June 1992, the Working Group reminded the Government of the 28 outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after nine years.

Information and views received from the Government

226. By a note verbale dated 4 November 1992, the transitional Government of Ethiopia provided information on 17 cases of disappearance previously transmitted by the Working Group, indicating that these persons had been killed by the former Government. As the whereabouts of the bodies were not detailed and as it was not indicated whether death certificates had been issued, the Working Group decided, at its thirty-eighth session, to retransmit these cases to the transitional Government for further information.

Statistical summary

I.	Cases reported to have occurred in 1992	2
II.	Outstanding cases	30
III.	Total number of cases transmitted to the Government by the Working Group	30
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	2
	(b) Cases clarified by the Government's responses	0

Guatemala

Information reviewed and transmitted to the Government

227. The Working Group's activities in relation to Guatemala are recorded in its previous 11 reports to the Commission, 1/ as well as in the report on the visit to the country which took place in 1987 (E/CN.4/1988/19/Add.1).

228. During the period under review, the Working Group transmitted 10 newly reported cases of disappearance to the Government of Guatemala, all of which were reported to have occurred in 1992 and were transmitted by cable under the urgent action procedure.

229. By letters dated 15 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure, and in a letter dated 19 June 1992 the Working Group also reminded the Government of all the outstanding cases transmitted in the past.

230. By letters dated 23 September and 15 December 1992, the Government was notified that six cases were considered clarified, five on the basis of its replies and one on the basis of further information provided by the source.

231. In a letter dated 23 September 1992, the Working Group informed the Government of reports it had received about developments in Guatemala having an influence on the phenomenon of disappearance or the solution of the cases not yet clarified, and invited the Government to comment on those allegations.

232. In accordance with resolutions 1992/59 and 1992/30, the Working Group sent to the Government of Guatemala "prompt intervention" cables requesting protection for the relatives of missing persons and non-governmental organizations against intimidation, reprisals or harassment, in particular: (a) members of the Mutual Support Group (GAM) whose office had been partially destroyed by a bomb placed at the door which also wounded one of the leaders of the organization, and (b) members of ethnic groups, such as the Chairman of the Council of Ethnic Communities "Runujel Junam" (CERJ), who had received death threats prior to the explosion of a bomb at his domicile in Santa Cruz del Quiché.

Follow-up on observations and recommendations made by the Working Group after its visit to Guatemala in 1987

233. In accordance with a decision taken by the Working Group at its thirty-sixth session, a letter dated 23 September 1992 was sent to the Government containing a number of questions involving legal and administrative mechanisms and protections relevant to the phenomenon of disappearances subsequent to the letter of 30 August 1991, which also contained questions on the recommendation made by the Group in its report on the 1987 mission to that country. These were: (a) In relation to the Commission set up to investigate disappearances, what capabilities had been devolved by law on the Commission to carry out its tasks? (b) What judicial and civilian entities had been placed at the disposal of the Commission to carry out its investigations and

on which governmental organs would such a civilian entity depend? (c) What measures had been taken to ensure that the members of the Commission, judges and/or civilian entities have free and unimpeded access to centres of detention and military barracks? (d) Had the Commission taken steps to maintain an updated list of persons in detention which would permit follow-up of persons transferred from one site of detention to another or of those said to be released? (f) What judicial forum was competent to try cases of disappearance alleged to have been carried out by security forces, and had any members of the security forces been submitted to trial and sentenced after final judgement? (g) Did the Commission have competency to take measures to identify bodies believed to be those of missing persons, and had the Commission cooperated with international forensic teams currently working in Guatemala? (h) Had norms been established to ensure the efficient use of habeas corpus? (i) Had instructions been given to members of the security forces regarding principles for the protection of persons submitted to any form of detention?

Information and views received from relatives of missing persons or from non-governmental organizations

234. The new cases transmitted during 1992 were submitted by such sources as Amnesty International, Americas Watch, the Central American Association of Relatives of Disappeared Detainees (ACAFADE), the Central American Commission on Human Rights (CODEHUCA), the Guatemalan Commission on Human Rights (CDHG) and the Mutual Support Group (GAM). Disappearances continued to occur according to the reports, primarily in the departments of El Quiché, Escuintla, San Marcos and Huehuetenango.

235. It was also reported that although the number of disappearances occurring in Guatemala during the year 1992 (and dealt with by the Working Group) had significantly diminished, they continued to occur, and the underlying circumstances which allowed them to occur had not altered.

236. However, most of the disappearances not related to common crimes were alleged to have been committed by the armed forces or by persons and groups acting on orders from or with the acquiescence of the armed forces. Sources cite in particular the occurrence of disappearances committed by armed forces during counter-insurgency operations as well as those committed by members of the civil self-defence patrols (PAC) during counter-insurgency operations in rural areas. Indigenous people have been reported to be the most frequent victims of disappearance, often as a result of resistance to forced displacement or forced recruitment by the armed forces into the self-defence patrols. Other victims of disappearances included human rights workers, trade unionists, authorities investigating human rights abuses and civilians suspected of supporting or giving aid to insurgency groups.

237. It was reported that Guatemalan law limits to 20 days the time anyone may be held in detention, after which that person must be charged or released. Authorities are required to produce detainees upon request; nevertheless, numerous reports continued to be received of incommunicado detention and routine disregard for writs of habeas corpus.

238. In May 1991, the Attorney-General for Human Rights announced that a commission to investigate disappearances during past presidencies would be created. As a result of pressure by certain non-governmental organizations dealing with human rights, and specifically disappearances, the Congressional Commission for Human Rights proposed legislation for the creation of such a commission, in which the human rights organizations would take part. To date, no action has been taken to create such a commission under law.

239. To date, the Government had not investigated any of the reported findings of common graves of victims of human rights violations which could lead to the clarification of hundreds of cases of disappearance alleged to have occurred, primarily during the 1980s. Exhumation of bodies in common graves discovered in Chontola and Tunaja, Department of Quiche, had been carried out by independent experts. Through this procedure, cases of disappearance had been clarified; nevertheless, numerous reports were received that the members of human rights organizations, forensic teams and local authorities involved in the exhumation and identification process had been continually threatened, and one doctor had allegedly been killed for his participation.

240. The Working Group received information to the effect that, with very few exceptions, the Government had failed to investigate, detain and prosecute persons responsible for grave human rights violations, including disappearances. Members of the security forces remained immune from accountability for such violations. Cases in which military personnel were implicated were brought before military tribunals. According to information received, the few such cases which had actually been tried had been irregularly or inadequately investigated and had not proceeded according to the minimum standards internationally accepted for the proper administration of justice.

Information and views received from the Government

241. In the course of 1992, the Government provided replies concerning three cases of disappearance. In one case, the reply contained information regarding the release of the missing person. In two cases, the Government provided information to the effect that the cases were being investigated by the court.

242. On 3 February 1992, the Attorney for Human Rights addressed to the Working Group a letter requesting information on the Working Group's methods of work and support for the activities of his office. The Working Group replied by letter dated 5 June 1992 that it was available for any consultation or support his office might require and suggested a meeting with the Attorney for Human Rights personally, if he so wished, during one of the Working Group's sessions.

243. With regard to the Working Group's letter of 30 August 1991, requesting information concerning legal and administrative mechanisms and protections pertaining to the phenomenon of disappearance in Guatemala, the Government responded by letter dated 25 November 1991 that the information requested could be obtained from the report to the Commission on Human Rights by its Independent Expert on Guatemala, Mr. Christian Tomuschat, which had been elaborated after two visits to the country during which he was amply briefed.

244. By a letter dated 19 November 1992, the Government requested the Working Group to provide a complete list of persons alleged to have disappeared in Guatemala to date as well as any other information and documentation which could be useful to the Government and stated that it would respond with respect to any investigations that might be carried out in this regard.

245. In accordance with Commission resolution 1992/42, the Government of Guatemala transmitted information on the activities of irregular armed groups by which four persons had allegedly been extrajudicially executed, several persons abducted and two persons killed by mines reportedly left behind by such groups. In addition, several other persons had been injured by the activities of the irregular armed groups, and destruction of property was also reported.

Statistical summary

I.	Cases reported to have occurred in 1992	10
II.	Outstanding cases	2,998
III.	Total number of cases transmitted to the Government by the Working Group	3,128
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	153
	(b) Cases clarified by the Government's responses a/	55
V.	Cases clarified by non-governmental sources b/	75

a/ Persons dead: 4
Persons in prison: 4
Persons released: 1
Persons not detained in the country: 25
Persons at liberty: 21

b/ Persons dead: 42
Persons in prison: 1
Persons released: 23
Persons at liberty: 9.

Guinea

Information reviewed and transmitted to the Government

246. The Working Group's activities in relation to Guinea are recorded in its last nine reports to the Commission. 1/

247. No case of disappearance was reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of the 21 outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after five years.

248. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1991	0
II.	Outstanding cases	21
III.	Total number of cases transmitted to the Government by the Working Group	28
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	7

a/ Persons dead: 7.

Haiti

Information reviewed and transmitted to the Government

249. The Working Group's activities in relation to Haiti are recorded in its last nine reports to the Commission. 1/

250. In the light of General Assembly resolution 46/7 of 11 October 1991, by which the Assembly affirmed as unacceptable any entity resulting from the illegal replacement of the constitutional President of Haiti and demanded the immediate restoration of the legitimate Government of President Aristide, the Working Group decided that it could not address its communications to the new de facto authorities of Haiti.

251. However, for humanitarian reasons, the Working Group sent by cable dated 29 April, 27 August, 18 September, 11 November and 15 December 1992, six newly reported cases of disappearance, five under the urgent action procedure and one under the normal procedure, to Mr. Jean-Jacques Honorat and Mr. François Benoit, Port-au-Prince, Haiti.

252. No other communication was sent to Haiti, because of the present situation. So far, no information has been received by the Working Group on any of the above cases.

Information and views received from relatives of missing persons or from non-governmental organizations

253. The newly reported cases of disappearance were submitted by the Lawyers Committee for Human Rights, Amnesty International and the Oecumenical Centre for Human Rights. The disappearances which occurred in Port-au-Prince were allegedly committed by soldiers, members of police forces and armed men reported to belong to security forces. Most of the victims were arrested before witnesses and several of them submitted to ill-treatment.

254. In addition, several non-governmental organizations stated that violations of human rights continued unabated since the September 1991 coup d'état. According to information received, in the days which followed the coup d'état, these violations included a large number of extrajudicial executions, beatings and mass arrests without warrant. Security force agents had also shot a large number of civilians in different sectors of Port-au-Prince, resulting in hundreds of dead and wounded. Scores of people, many of whom were demonstrating in support of President Aristide, were indiscriminately and deliberately shot at by military personnel driving jeeps in different areas of the capital. Unconfirmed reports had stated that the security forces were also shooting at ambulances in the streets of Port-au-Prince, so as to prevent treatment of the wounded.

255. Reports of torture and other cruel, inhuman or degrading treatment by the security forces were also mentioned. Some of the people who were at the National Palace with President Aristide, on 30 September 1991, were subjected to beatings and threatened with death by security forces. Another area of serious concern was the mass arrest without warrant of a number of youths by uniformed military men and armed civilians in different parts of the country, as no news of their whereabouts had ever emerged.

256. A number of people had gone into hiding after a detention for fear of being victims of a new detention or a disappearance. People disappeared after being arrested or abducted. The authorities persistently denied that they were in custody, despite reports that they had either been seen in detention or killed. It was difficult to verify those allegations since the authorities had not taken any initiative to investigate reports made by relatives in relation to cases of disappearance.

Statistical summary

I.	Cases reported to have occurred in 1992	5
II.	Outstanding cases	24
III.	Total number of cases transmitted to the Government by the Working Group	33
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	13
	(b) Cases clarified by the Government's responses a/	9

a/ Persons at liberty: 4
Persons in prison: 5.

Honduras

Information reviewed and transmitted to the Government

257. The Working Group's activities in relation to Honduras are recorded in its previous 10 reports to the Commission. 1/

258. During the period under review, the Working Group transmitted, under the urgent action procedure, one newly reported case of disappearance to the Government of Honduras, which allegedly occurred in 1992. During the same period, the files of Honduras were again revised on the basis of information received from the sources, and three cases were deleted. In one of those cases, the mother of the person allegedly missing reported that only one of her sons had been arrested and was still missing and not two, as reported in the past. The other two cases were deleted after careful examination of the information led to the conclusion that they were duplicated in the files.

259. By letter dated 19 June 1992, the Government was notified that two cases were considered clarified on the basis of information provided by the Government. By the same letter the Government was reminded of the outstanding cases. At the request of the Permanent Representative of Honduras to the United Nations Office at Geneva, the Working Group provided the Government, by a note verbale dated 6 August 1992, with a copy of the summaries of all outstanding cases existing in its records.

260. In a letter dated 23 September 1992, the Working Group also informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in Honduras or the solution of the cases not yet clarified.

261. The Working Group also transmitted to the Government by cable, under the "prompt intervention procedure" and according to resolution 1992/59, a request

for protection sent by an organization which cooperates actively with the Working Group on behalf of one of its members - also president of one of its local branches - who had reportedly been threatened with a firearm by a member of a security service.

Information and views received from relatives of missing persons or from non-governmental organizations

262. The newly reported case of disappearance was submitted by the Central American Commission on Human Rights (CODEHUCA) and it concerned a person detained in the presence of his family by military personnel, who also had allegedly ill-treated the parents of the disappeared person.

263. Amnesty International, the Committee for the Defence of Human Rights in Honduras (CODEH), the Committee of Relatives of Disappeared Persons (COFADEH) and the Inter-Church Committee on Human Rights in Latin America submitted to the Working Group reports on a number of issues relating to disappearances. They stated, inter alia, that while the practice of disappearances was not a policy of the present administration, the fate of more than 100 political dissidents who had disappeared in Honduras between 1980 and 1984 remained unknown; the Government had yet to send a clear message that human rights violations would not be tolerated. It had not carried out any proper investigations into the enforced disappearance or the political assassination of Hondurans, and had put no effort into determining who was responsible for those crimes, sometimes even blaming the victims. Despite pledges by the Government since 1990 that such investigations would be undertaken, nothing had been done.

264. It was also stated that there was abundant evidence that the disappeared persons had been abducted by members of the armed forces or the security services as part of a strategy on the part of the Government in office when the disappearances occurred. Over the years, however, the authorities had denied that these people had been arrested or detained by government officials. Only a few cases of disappearance had been clarified while the majority of them remained unsolved, in particular those for which military or police forces were held responsible.

265. The impunity enjoyed by members of the armed forces who committed human rights violations was one of the most important human rights problems. The protection of the rights of all persons against violations of human rights committed by military or police personnel could not be effectively ensured by the judiciary, owing to the Government's failure to exercise the political will to insist on accountability for human rights violations, to ensure the independence of judges and courts and to provide for clear legislation and mechanisms to resolve jurisdictional issues between the civilian and military court systems. In addition, decree 87-91, which implicitly granted broad and unconditional amnesty for offences committed by military or police personnel, including killings, torture and unlawful arrest, had fostered a climate of impunity conducive to further abuses and had put an obstacle in the way of investigation of cases of disappearance that had occurred in the past.

266. Relatives' associations and human rights groups continued to press for an official accounting of cases of disappearance that had occurred in the past,

to no avail. This resulted in continuous psychological, social and economic harm to the relatives and children of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	126
III.	Total number of cases transmitted to the Government by the Working Group	191
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	123
	(b) Cases clarified by the Government's responses a/	30
V.	Cases clarified by non-governmental sources b/	35

a/ Persons found dead: 1
Persons in prison: 5
Persons living abroad: 2
Persons extradited: 2
Persons released: 18
Persons at liberty: 2

b/ Persons escaped from prison: 1
Persons dead: 4
Persons in prison: 4
Persons living abroad: 2
Persons extradited: 2
Persons released: 13
Persons at liberty: 9.

India

267. The Working Group's activities in relation to India are recorded in its last three reports to the Commission. 1/

268. During the period under review, the Working Group transmitted 50 newly reported cases of disappearance to the Government of India, of which 21 were reported to have occurred in 1992. Twenty cases were transmitted by cable under the urgent action procedure. By letter dated 19 June 1992 the Government was informed that one case had been clarified on the basis of information provided by the source.

269. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under

the urgent action procedure; by letters dated 19 June and 23 September 1992, the Working Group also reminded the Government of all outstanding cases. In a letter dated 23 September 1992, the Working Group also informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in India or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

270. The newly reported cases of disappearance were submitted by Amnesty International, the Sikh Human Rights Group and the World Human Rights Organization. These organizations also reported that during 1992, paramilitary and security forces, particularly the police, had been responsible for human rights abuses. In large part these abuses were reported to be the result of inadequate supervision by the civilian authorities of the police and other groups used to maintain law and order, as well as the inability and/or unwillingness to prosecute effectively the persons responsible for the abuses.

271. Disappearances were reported to occur primarily, though not exclusively, in the Punjab, Jammu and Kashmir, and Assam States because of the increased use of paramilitary and security forces in those areas to control disturbances arising from religious and political (separatist) tensions. The disappearances were alleged to be the result of a number of factors related to the wide powers granted to the security forces under ongoing emergency legislation. The Terrorist and Disruptive Activities (Prevention) Act was now applicable in all states and had been invoked during the reporting period in 16 of 25 states. In designated areas, under TADA, incommunicado detention was permissible.

272. In the Punjab, the Government allegedly did not publish statistics of the number of persons held in connection with political activities under preventive detention or special "anti-terrorist" legislation, and in many cases arrests were not recorded at all in the daily registers of police stations. Detainees were often not brought before a magistrate within 24 hours as required by section 57 of the Code of Criminal Procedure. In many cases, police officers had allegedly denied knowledge of arrest or detention and later claimed that the person in question had "escaped" or died in an armed confrontation. Several cases of prolonged incommunicado detention were reported from Jammu and Kashmir. Many detainees claimed to have been tortured during the period of unacknowledged detention. Relatives reported having been threatened for trying to locate a missing person, or detained and physically mistreated when held in lieu of the person security forces wished to question or detain. Women were reportedly particularly vulnerable to this practice and were subjected to systematic rape. In some cases, relatives reported being forced to pay for a person's release.

273. In the Punjab, many cases of detention were allegedly not recorded in police stations' registers; persons were not brought before a magistrate within 24 hours, as required by section 57 of the Code of Criminal Procedures, and police officers often denied detention. Members of security forces

responsible for disappearances and other violations might not be tried for these crimes in civil courts; therefore, the internal administrative procedures of the security forces were the only legal remedy available. Few, if any, cases had reportedly been known to have been carried through to a just, final sentence. It should also be noted that in Kashmir and the Punjab, certain irregular armed groups had been reported to have carried out human rights violations, including disappearances. Kidnappings and unacknowledged detention had become frequent in Kashmir in particular.

Information and views received from the Government

274. By note verbale dated 8 January 1992, the Government of India informed the Working Group of certain safeguards provided by the Constitution of India with regard to the fundamental right to life and personal liberty of all its citizens. With particular reference to the general allegations for the year 1991, the Government stated that its fundamental responsibility was to maintain law and order, but that, in doing so, law enforcement officials acted in accordance with the Code of Conduct for Law Enforcement Officials. The Government also stated that allegations of human rights violations made against members of security forces were mostly found to be inaccurate, highly exaggerated or deliberately false, but when allegations had been borne out, disciplinary action had been taken against those responsible.

275. In a note verbale dated 22 September 1992, the Government also informed the Working Group that it had established a high-level committee to consider proposed legislation for a National Human Rights Commission. The Government further stated that, with regard to three cases of disappearance which were transmitted on 14 December 1990, it had already responded that the persons were not in the custody of the police as alleged and had requested the Working Group to provide the full name and address of the missing person.

276. By note verbale dated 3 December 1992, the Government provided information on eight cases. For seven of them no indication of where the person was, either alive or dead, was provided. In a note verbale dated 2 December 1992, the Government stated that its legislation contained special protection for the right to life and personal liberty, which could not be suspended even when a state of emergency was declared. The Indian judiciary had also evolved a legal process known as "public interest litigation" by which any individual or group could bring to the attention of the judiciary cases of violations of human rights, so setting into motion the judicial process to provide remedial measures. In addition, in view of the terrorist activities carried out by secessionist groups, special legislation had been enacted specifically to deal with terrorist offences. The Government also informed the Working Group that a proposal to set up a national Human Rights Commission was under consideration at the highest level in India.

277. Finally, the Government transmitted to the Working Group a list of brutalities committed by terrorists in Punjab, indicating that it was only illustrative of the activities carried out by secessionist groups in India. The list contains reports on the killing of 372 persons and injuries inflicted on 318 persons as a consequence of bomb blasts or the shooting of villagers, passengers on trains and buses, magistrates, family members of policemen,

businessmen, civil servants and other officials, children, women (in particular Muslim women). Several persons had reportedly been tortured and subjected to cruel treatment before being killed.

Statistical summary

I.	Cases reported to have occurred in 1992	21
II.	Outstanding cases	150
III.	Total number of cases transmitted to the Government by the Working Group	169
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	35
	(b) Cases clarified by Government's responses a/	18
V.	Cases clarified by non-governmental sources b/	1

a/ Persons whose bodies were identified: 13
Persons in prison: 3
Persons released: 2

b/ Persons in prison 1.

Indonesia

Information reviewed and transmitted to the Government

278. The Working Group's activities in relation to Indonesia are recorded in its 11 previous reports to the Commission. 1/

279. During the period under review, the Working Group transmitted 214 newly reported cases of disappearance to the Government of Indonesia, of which 4 were reported to have occurred in 1992. The Group also retransmitted to the Government one case containing additional information received from the sources.

280. By a letter dated 15 December 1992, the Government was notified that eight cases were considered clarified based on its replies. As regards the 214 cases transmitted by the Working Group on 15 December 1992, in accordance with its methods of work, it should be understood that the Government could not have responded in the time available before the adoption of the present report.

281. By a letter dated 25 January the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure.

282. In a letter dated 23 September 1992, the Working Group also informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in Indonesia or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

283. Two hundred and seven newly reported cases of disappearance related to the incident at the Santa Cruz cemetery in Dili, East Timor, were submitted by the oecumenical association "Peace is possible in East Timor"; seven newly reported cases of disappearance occurred in Aceh were submitted by the Acheh/Sumatra National Liberation Front and by Asia Watch.

284. It was reported that since the 12 November 1991 incident at the Santa Cruz cemetery in Dili, East Timor, when the military opened fire on demonstrators, many of them students, numerous civilians had been detained for questioning or on suspicion of subversive activities and had subsequently disappeared. It was alleged that the disappearances occurred while persons were in the custody of security forces and that most of them had been held incommunicado in police or military centres or in "safe houses". It was also reported that some of the disappeared might have been killed and buried in unmarked mass graves.

285. The Working Group was informed that the risk of disappearance was heightened by a lack of sufficient concrete safeguards. The Criminal Code granted police or military investigators the right to detain an individual for up to 20 days without judicial consent. While approval of the public prosecutor was required for detention after the initial 20 days (approval may be granted for up to 60 days), it was alleged that this safeguard was often disregarded.

286. The seven newly reported cases of disappearance in the District of Aceh (northern Sumatra) concerned persons allegedly detained by security forces on suspicion of involvement in the Aceh Merdeka (Free Aceh), an armed opposition group seeking independence for Aceh and parts of Sumatra. Some of the missing persons had been arrested while attempting to hold Acehnese flag-raising ceremonies, while others were reportedly arrested after they had been returned, apparently unwillingly, from Malaysia, where they had sought refuge. Fear was expressed that, considering the number of unidentified corpses found in Aceh, many of those who were missing after having been last seen in military custody might in fact have been killed.

287. Family members had been reluctant to pursue cases with local authorities for two reasons:

(a) Local remedies for ascertaining the whereabouts of their relatives were insufficient and there appeared to be little will on the part of the authorities to permit families to avail themselves of the existing remedies;

(b) Family members had allegedly been regularly threatened by persons supposed to be linked to official forces for making inquiries as to the whereabouts of a missing person, and no legal protection was available for their own protection.

288. The Working Group was informed that sources had requested that forensic medical experts be allowed to exhume and identify bodies of persons alleged to have been killed extrajudicially for the purpose of clarifying the fate of some of the persons reported missing. In addition, some organizations expressed the idea that the problem of the missing persons in Indonesia, and particularly in East Timor and Aceh, might be addressed by the Government's issuing an invitation to the Working Group to visit Indonesia.

Information and views received from the Government

289. In a letter dated 4 May 1992, the Government provided information on 33 cases of disappearance previously transmitted by the Working Group. The Government reported that in 14 cases the missing persons were activists of the armed group known as GPK who were suspected of having fled to the jungle. The remaining 19 persons had been killed in the course of exchanges of fire between GPK and the Indonesian armed forces. The Government informed the Working Group that it had done its utmost to trace the missing persons but that, since many of the cases occurred several years ago, considerable time was needed to trace them.

290. In a letter dated 14 May 1992, the Government informed the Working Group that 8 of the 17 persons who were missing in connection with the Dili incidents, whose cases had been transmitted on 10 December 1991, were alive and well and were residing at their respective addresses. With regard to the nine remaining cases, the Government was still making every effort to trace them, but it had encountered difficulties due to a lack of proper identification of the persons allegedly missing, such as incomplete names and the absence of addresses.

Statistical summary

I.	Cases reported to have occurred in 1992	4
II.	Outstanding cases	355
III.	Total number of cases transmitted to the Government by the Working Group	398
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	68
	(b) Cases clarified by the Government's responses a/	31
V.	Cases clarified by non-governmental sources b/	12

a/ Persons in prison: 6
Persons currently residing in named villages: 25

b/ Persons killed: 2
Persons in prison: 2
Persons found to be alive: 8.

Iran (Islamic Republic of)

Information reviewed and transmitted to the Government

291. The Working Group's activities in relation to the Islamic Republic of Iran are recorded in its previous 10 reports to the Commission. 1/

292. During the period under review, the Working Group transmitted nine newly reported cases of disappearance to the Government of Iran, of which one was reported to have occurred in 1992. All of the nine cases were transmitted by cable under the urgent action procedure since eight of them had allegedly occurred in November 1991.

293. By letter dated 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases.

294. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified. In addition, by a letter dated 15 December 1992, the Government was requested to cooperate in the investigation of a disappearance allegedly carried out by Iranian forces within Turkish territory.

Information and views received from relatives of missing persons or from non-governmental organizations

295. The majority of the newly reported cases of disappearance were submitted by the People's Mojahedin Organization of Iran and they concern villagers who were arrested after their attempt to seize agricultural land.

296. This organization also provided reports on the human rights situation in the country. It stated that the Islamic Republic of Iran lacked a public official record of detentions and, since information was denied to relatives and detainees were given no access to legal counsel (although a Parliamentary Act on detainees' access to legal counsel had been enacted in October 1991), the number of persons in unacknowledged detention or persons killed in custody was unknown. However, it was assumed that cases of disappearance were more numerous than reported by governmental or non-governmental organizations because it was known that many political prisoners were routinely executed without their detention ever having been acknowledged.

297. Demonstrations in which a great number of people took part all over the country in 1992, such as those of Mashad, Shiraz, Arak, South Tehran and Bukan, had resulted in thousands of new unacknowledged detentions. Among the detainees, there were relatives of executed, disappeared or imprisoned persons who had demonstrated in front of the office of the International Committee of the Red Cross in Tehran in January 1992.

298. It was reported that the lack of Government information on political prisoners was a factor that contributed to the anguish and sorrow of relatives. Many families of executed persons were never informed of the fate of their loved ones. It was impossible to know exactly how many persons had disappeared because the Government had not made public information on human rights issues, such as executions, detention and imprisonment. Requests for information on specific prisoners were often met with denial that there was an official record on the person concerned.

299. It was also reported that political trials failed to meet minimum internationally recognized standards and that detainees were often tortured or subjected to brutal treatment. It might be assumed that prisoners died in custody as a consequence of ill-treatment and relatives were not informed of their death. Similarly, figures on summary executions after trials in camera which were carried out in a matter of days or even minutes were thought to be higher than recognized by the Government.

300. In the case of persons detained during a demonstration held at Shiraz, there was no official information on their fate, while a statement published by the State-controlled press indicated that those arrested in Shiraz "were given the sentences they deserved and the sentences have been carried out". In addition, relatives of the detainees were often intimidated by prison guards and by the climate of terror created by the brutality of, and the killings by, government forces. Thus, they were reluctant to report cases of disappearance and other violations of human rights.

301. The People's Mojahedin of Iran referred in one of their submissions to the statement made by the Government which was reflected in the Working

Group's report to the Commission on Human Rights at its forty-eighth session (E/CN.4/1992/18, para. 207) to the effect that their organization was involved in terrorist activities. In this connection, they pointed out that in Iran the Mullahs were the sole perpetrators of "looting and plunder of the populace" of "killing innocent people" as well as of "terrorism" - especially the State-sponsored brand of Mullahs. The efforts of the People's Mojahedin Organization to establish democracy and human rights in Iran was negated, and the Iranian people's armed resistance was waged within the framework and regulations of the National Liberation Army of Iran, which operated in accordance with regulations and criteria designated in the Geneva Conventions of 12 August 1949. The allegations made by the Government and reflected in the Working Group's report were said to be the same as those which the regime had very often repeated in order to discredit the Iranian resistance.

Information and views received from the Government

302. During the reporting period, the Government of Iran did not provide any replies on individual cases. By its note verbale dated 29 November 1991, it provided a reply on the Working Group's tentative considerations on the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	499
III.	Total number of cases transmitted to the Government by the Working Group	500
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	265
	(b) Cases clarified by the Government's responses	0
V.	Cases clarified by non-governmental sources. a/	1

a/ Persons detained in prison: 1.

Iraq

Information reviewed and transmitted to the Government

303. The Working Group's activities in relation to Iraq are recorded in its previous seven reports to the Commission. 1/

304. During the period under review, the Working Group transmitted 5,573 newly reported cases of disappearance to the Government of Iraq, of which none were reported to have occurred in 1992.

305. By letters dated 24 July, 23 September and 15 December 1992, the Government was notified that 13 cases were considered clarified based on its replies. The Government was also informed that in 24 cases the Group had applied the six-month rule.

306. By a letter dated 25 January 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letters dated 24 July 1992 and 15 December 1992, the Working Group also reminded the Government of all outstanding cases.

307. In a letter dated 23 September 1992, the Working Group informed the Government of allegations it had received about recent events in Iraq having an impact on the phenomenon of disappearance or on the solution of the cases not yet clarified.

308. As regards the cases transmitted by the Working Group on 15 December 1992 in accordance with its methods of work, it should be understood that the Government could not have responded in the time available before the adoption of the present report. In this respect, it is to be noted that some 2,000 cases of disappearance approved by the Working Group at its thirty-sixth session for transmission to the Government of Iraq have still to be prepared owing to a shortage of staff, while well over 500 more cases received by the Working Group (including cases reported to have occurred in 1992) await analysis and processing for the same reason.

Information and views received from relatives of missing persons or from non-governmental organizations

309. The majority of the newly reported cases of disappearance were submitted by the Patriotic Union for Kurdistan, the Organization of Human Rights in Iraq, and the Gulf War Victims' Committee for Disappeared Ones. Other cases of disappearance were submitted by the Kurdish Organization for Human Rights, the Documental Centre for Human Rights in Iraq and a group of Faili (Shi'a) Kurds.

310. The forces often cited as being responsible for the disappearances were security forces, republican guards and other government forces of a principally military nature. Victims were of all kinds, including women, children and the elderly. The great majority of disappearances occurred in the Kurdish northern region of the country or the predominantly Shi'a southern part of the country. It is also to be noted that the nature and timing of the large percentage of disappearances coincides with significant increases in the activities, including violent rebellion, of certain persons opposed to the present Government. However, other cases of disappearance appear to be unconnected to such occurrences, demonstrating a more arbitrary nature.

311. In addition to specific cases of disappearance submitted by the above-mentioned non-governmental organizations, general reports concerning the human rights situation in Iraq, including the phenomenon of disappearance, were received from several groups including, most of the above, Amnesty International and Middle East Watch. Letters and reports were also received from a variety of individuals concerning both the general situation and the problem of disappearances in particular.

312. To summarize these allegations, there continue to be reports of a generalized fear among the population relating to all governmental authorities which is such that those local remedies that might be said to be available may not be confidently pursued by the relatives of the victims. At the same time, the forces which are generally said to have been responsible for the disappearances seem to have undergone no structural changes or reviews, nor have they even been the focus of government investigations which might give reason for new confidence. Consequently, there remains in Iraq the clear impression that government forces may have acted, and may continue to act, with impunity. Further, courageous efforts to confront these forces or pursue judicial remedies are said to be few and far between because of the widely held fear of reprisals which is said to have been instilled in the population through years of demoralizing experience.

Information and views received from the Government

313. By letters dated 8 July, 18 August and 20 November 1992, the Government provided information on cases of disappearance previously transmitted by the Working Group. In total, the Government reported on 38 cases of disappearance. Of these, one person was reported to have been killed in the disturbances of March 1991, while six others were reported to have left the country and were said to be living abroad. The remainder were said to be at liberty within Iraq. The Government also sent information concerning one person unknown to the Working Group. In the course of its thirty-seventh and thirty-eighth sessions, the Working Group considered these responses and determined that 25 cases would be subjected to the six-month rule, while more specific information would be required from the Government concerning the other 13 cases of disappearances. Information was further requested on two persons related to one of those for whom more specific information was requested.

314. By notes verbales dated 14 January and 12 March 1992, and again in its letter of 8 July 1992, the Government requested the Working Group to provide information concerning disappeared persons in the Arabic language in addition to the English language, which is one of the working languages of the Working Group. The basis of this request derives from the difficulty of transliteration between Arabic and languages using the Latin alphabet; in the course of translation, it is possible to have many variations of spelling which may cause significant difficulties with respect to the names of disappeared persons. As a result, the Working Group stated, on 24 July 1992, that it would "endeavour, in the interest of clarity, to make available, to the extent that this is possible, the names of missing persons in the Arabic language".

315. It is to be noted that in order to comply with such reasonable requests as that of the Government of Iraq, the Working Group must cope with additional work, which also implies yet another financial burden and potential delays. Evidently, without any improvement in the resources available to the Working Group in 1993, it will be difficult to fulfil such commitments, which would clearly assist in the search for missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	9,347
III.	Total number of cases transmitted to the Government by the Working Group	9,447
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	244
	(b) Cases clarified by the Government's responses a/	83
V.	Cases clarified by non-governmental sources b/	17

a/ Persons living abroad: 3
Persons in prison: 3
Persons released from detention: 28
Persons executed: 10
Persons at liberty: 31
Persons not detained in the country: 3
Persons dead: 5

b/ Persons executed: 4
Persons released from detention: 4
Persons dead: 1
Persons at liberty: 8.

Israel

316. During the current year, the Working Group transmitted to the Government of Israel, by letter dated 23 September 1992, one case of enforced or involuntary disappearance, which reportedly occurred in 1991. The case was submitted by Hotline: Centre for the Defence of the Individual, Jerusalem, and it concerned a Palestinian living in the occupied West Bank, who was believed to have been abducted by the secret security forces. His family had attempted to locate him through official channels, and had made an appeal to the Israeli High Court, but no information on the missing person's whereabouts, alive or dead, had been given to them.

317. At the time of the adoption of the present report, no information from the Government of Israel had been received by the Working Group with regard to this case.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Lebanon

Information reviewed and transmitted to the Government

318. The Working Group's activities in relation to Lebanon are recorded in its last nine reports to the Commission. 1/

319. No cases of disappearance were reported to have occurred in 1992. However, by a letter dated 19 June 1992, the Working Group reminded the Government of Lebanon of the 243 outstanding cases transmitted in the past.

320. In a note verbale of 22 June 1992, the Permanent Mission of Lebanon to the United Nations Office at Geneva asked for a copy of the Working Group's computerized summaries of the outstanding cases. The summaries were sent to the Government by note verbale dated 30 June 1992.

321. Since no further communication was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify those cases for which no information had ever been received, after 10 years.

322. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	243
III.	Total number of cases transmitted to the Government by the Working Group	248
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	0
	(b) Cases clarified by non-governmental sources a/	5

a/ Persons released: 5.

Mauritania

Information reviewed and transmitted to the Government

323. The Working Group's activities in relation to Mauritania are recorded in its last two reports to the Commission. 1/

324. No cases of disappearance were reported to have occurred in 1992. By letter dated 19 June 1992, the Working Group reminded the Government of the one outstanding case transmitted under the urgent action procedure in 1990. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the case for which no information had been received, after two years.

325. At the time of the adoption of the present report, no reply to this last letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing person.

Statistical Summary

I.	Cases reported to have occurred in 1991	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Mexico

Information reviewed and transmitted to the Government

326. The Working Group's activities in relation to Mexico are recorded in its second and fourth to twelfth reports to the Commission. 1/

327. During the period under review, the Working Group retransmitted to the Government one case containing additional information received from the sources.

328. By letter dated 19 June 1992, the Working Group notified the Government that one case was considered clarified, based on information provided by it, and reminded the Government of all outstanding cases.

329. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified. By the same letter, the Group informed the Government that it had decided to request from the source additional information which the Government had requested on a number of cases; however, the Working Group also drew the attention of the Government to the fact that all those cases contained the basic elements required in the Group's methods of work. In addition, the Working Group, at the request of the Government, provided it with a list of all outstanding cases in the Working Group's files.

Information and views received from relatives of missing persons or from non-governmental organizations

330. Reports on the human rights situation in the country were received from Amnesty International, the Minnesota Lawyers Association and relatives of missing persons.

331. It was reported inter alia that Mexico suffered from "traditional" abuses such as the killing of peasant leaders over land conflicts, the torture of prison detainees, labour rights abuses, judicial corruption, and virtual police and military impunity. Impunity was one of the most important causes of such abuses.

332. The National Commission on Human Rights, established by the present administration, was charged with the task of investigating human rights abuses and issuing recommendations to the authorities. However, it had not been given powers of prosecution. The Commission had received hundreds of complaints and had investigated more than 40 cases, for which it had issued recommendations. In several cases the missing person had been found alive and in a few cases the person had been found dead. However, most of the Commission's recommendations concerning steps to be taken to identify those responsible for human rights violations had not yet been implemented.

333. The view was expressed that, despite the valuable recommendations made by the National Commission on Human Rights in the case of a political leader who had disappeared in 1988, his whereabouts remained unknown and no progress had been reported in bringing to justice those responsible for his disappearance.

According to the sources, the judicial system bore great responsibility for the failure to establish accountability for human rights violations; as it often lacked the necessary impartiality and numerous irregularities were committed during the investigation and trial of cases involving violations of human rights.

334. It was alleged that evidence was manipulated and false accusations made to avoid incriminating officials or authorities that were responsible for serious human rights violations. In the case of a disappearance that had allegedly originated in corruption within the police, the body of the victim was found and identified. However, the victim's relatives expressed serious doubts about the investigation and the confession made by the person who had pleaded guilty to the crime. The sources indicated that there was considerable evidence leading to the assumption that the events could not have occurred as alleged, and they ruled out the claim that the person charged with the crime had acted alone because it was obviously impossible that a single person had accomplished the numerous activities involved in the crime as described in the sequence and timing indicated in the proceedings of the case. In addition, the body of the victim showed traces of cigarette burns on the chest and other signs of torture, and the manner and circumstances in which the victim had been treated suggested the involvement of the police.

Information and views received from the Government

335. The Permanent Mission of Mexico to the United Nations Office at Geneva transmitted to the Working Group, by notes verbales dated 30 January and 4 February 1992 information on the investigation carried out and recommendations issued by the National Commission on Human Rights in the case of a political opposition leader who had disappeared in December 1988 in the State of Morelos. The Commission concluded that

> "there is sufficient evidence to argue that José Ramón García Gómez's absence is very probably the result of an enforced and involuntary disappearance, in which the chief of the Political Investigation Unit of the State Judicial Police and other persons were involved because there would be no other reason for them to lie to the public authorities and hamper the impartial execution of justice which in this case requires finding the missing person and punishing those responsible for his disappearance".

336. The Commission recommended that the Governor of Morelos order the State Procurator to initiate criminal proceedings and request warrants for the arrest of two high-ranking officials of the State of Morelos for their presumed responsibility in respect of the commission of the offences of abuse of authority, making false statements to an official, obstruction of the administration of justice and unlawful association, all of which were offences under the laws of Morelos. The Commission also recommended that criminal proceedings should be instituted and that a warrant should be sought for the arrest of two other police officers as the material authors of the crime of unlawful association and as accomplices in the commission of abuse of authority.

337. The information received from the Government further indicated that the officer in charge of political investigations of the Secretariat-General of the Government had been accused of the offence of unlawful deprivation of liberty in the form of abduction, of abuse of authority and of making false statements in relation to this case of disappearance. It had been also announced that a request would be made for the withdrawal of immunity from a representative in the State Congress for having helped to thwart the investigation by the police.

338. By note verbale of 27 February 1992, the Permanent Mission of Mexico forwarded to the Working Group the text of a statement made by the President of the National Commission on Human Rights at a meeting held to implement certain amendments introduced to article 102 of the Mexican Constitution which gave the National Commission constitutional rank. The pertinent provision of the Constitution now reads as follows:

> "The Congress of the Union and the State Legislatures, in their respective capacities, will establish organisms for the protection of Human Rights granted by the Mexican legal order; these organisms will attend to complaints against acts or omissions of an administrative nature resulting from any authority or public servant, with the exception of the Judiciary Power of the Federation, that violate such rights. They will make public, autonomous, non-binding recommendations as well as accusations and complaints before competent authorities.
>
> "Such organisms will not be competent in dealing with electoral, labour or jurisdictional matters. The organism established by the Congress of the Union will resolve the nonconformities presented in relation with the recommendations, agreements or omissions of the equivalent organisms of the States."

339. Among the implications of this amendment, the President of the National Commission stressed that, in the future, complaints pertaining to the different states of Mexico would be dealt with by local commissions established to that end. He stated that scepticism with respect to the impartiality and efficacy of the local commissions had been expressed; consequently it would be up to the local commission to gain the confidence of the society of those states through a successful, apolitical and non-partisan work for the humanitarian cause of human rights.

340. During its thirty-eighth session, the Working Group met with the President of the National Commission, who gave an account of the Commission's activities and explained how it had succeeded in clarifying a number of cases.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	210
III.	Total number of cases transmitted to the Government by the Working Group	258
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	219
	(b) Cases clarified by the Government's responses a/	47
V.	Cases clarified by non-governmental sources b/	1

a/ Persons reported dead: 38
Persons at liberty: 8
Persons released from detention: 1

b/ Persons in prison: 1.

Morocco

Information reviewed and transmitted to the Government

341. The Working Group's activities in relation to Morocco are recorded in its previous 10 reports to the Commission. 1/

342. During the period under review, the Working Group transmitted two newly reported cases of disappearance to the Government of Morocco, by letters dated 19 June and 23 September 1992.

343. In the first letter, the Working Group drew the attention of the Government to nine cases already transmitted in the past, which had been updated with new information provided by non-governmental sources. In addition, the Government was informed that on the basis of further details received from the sources, 13 cases of disappearance were considered clarified by the Working Group.

344. However, of particular concern were the 202 outstanding cases transmitted in the past which had not yet been solved. The Working Group again drew the attention of the Government of Morocco to this matter in a letter dated 4 September 1992 whereby it explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the

Government had become essential and urgent in order to clarify those outstanding cases, for which no information had ever been received, after nine years.

345. In relation to a communication from the Government on the release of military personnel arrested in 1971 and 1972, in a letter dated 19 June 1992 the Working Group requested the Government to provide more specific details on names, so as to be in a position to consider clarified the cases referred to. Finally, the Working Group forwarded to the source a request for more precise information on a person's name.

Information and views received from relatives of missing persons or from non-governmental organizations

346. The two cases of disappearance transmitted to the Government in 1992 as well as reports on the situation of human rights in Morocco were reported by Amnesty International and the Association des Parents et Amis des Disparus du Maroc. According to the reports received, since the 1960s the Moroccan forces had used "disappearance" as a form of punishment against political opponents. These had reportedly included hundreds of people of Western Saharan origin who had been arrested between 1975 and 1987, usually because they or their relatives were known or suspected supporters of the POLISARIO Front. In 1991, a large group of these prisoners who had reportedly been held at the Hill Fort of Qal'at M'gouna (north-west of Ouarzazate) and at a secret centre in Laayouze, had been released. However, they had remained under strict surveillance by the authorities and were prevented from making contact with the outside world.

347. In spite of these releases, hundreds of other Western Saharans remained disappeared. Another group of missing detainees had reportedly been held for years at the secret detention centre known as Tazmamart. This centre was said to have been demolished by the Government in 1991 and a number of prisoners released. Others, however, still remained unaccounted for. Nevertheless, one year after the closure of the secret detention centre at Tazmamart and the release of most of the 30 surviving prisoners, the Moroccan Government remained silent about the other 33 prisoners who had died in detention there. More than half of the prisoners held in total isolation in Tazmamart died from illness resulting from inadequate nutrition and hygiene, lack of medical care and neglect; most of them died years after their sentences had expired.

348. The survivors had been released after 18 years of secret detention in inhuman conditions, completely cut off from the outside world. They had all suffered serious permanent physical and psychological damage and continued to be deprived of the medical care necessary to treat the illnesses caused by the years of detention in Tazmamart. In addition, upon release they had reportedly been told by the authorities never to speak about their experiences in Tazmamart, as this would have serious consequences for themselves and their families, and they remained under close surveillance.

349. The 18 years of detention in conditions such as those experienced in Tazmamart prison had left those who survived in very serious physical condition. Their health had been damaged to such an extent that a return to normal life was impossible. Most were at present between 10 and

20 centimetres shorter in height than before they were sent to Tazmamart, they suffered from spinal problems and their sight had deteriorated. The psychological scars of their ordeal could not be healed, and they continued to live under threat of reprisals on themselves and their families if they spoke out about their experiences in Tazmamart. Most were unable to obtain the necessary medical care to help them readjust to normal life. No inquiry had been held into how the prisoners of Tazmamart had come to be held in secret detention in life-threatening conditions for 18 years, or into the circumstances which had led to the death of 33 of them. The United Nations Human Rights Committee raised the question of Tazmamart during its examination of Morocco's report on the implementation of the International Covenant on Civil and Political Rights in November 1990. They were told by Moroccan representatives that the name of Tazmamart was not to be found on any official list of prisons. It was only in July 1992 that King Hassan acknowledged the existence of the detention centre in an interview with the French newspaper Libération.

350. According to the reports received, the following four detention centres, located in the south of Morocco, seemed to have replaced Tazmamart: Kalaât el Caïd Abdellah, Ksar Aït Chaïr, Oued El Maleh and Oued Ounil. Relatives believed that some of the disappeared persons were being held in those prisons.

351. According to another source of information, since the arrival in Morocco of Saharan deserters, the Moroccan authorities have issued a whole series of allegations on the situation prevailing in Saharan refugee camps close to Tindouf, Algeria. Refugees were reportedly kept in custody and prevented from leaving the camps. The organization Centre Europe-Tiers Monde led an investigation in Saharan camps in September 1992 and was able, inter alia, to clarify an alleged case of disappearance and detention in one of the camps. The missing person was finally located and identified as free in his usual pastoral and nomadic activity 500 kilometres away from the Tindouf area.

Information and views received from the Government

352. In a note verbale dated 30 September 1992, the Permanent Mission of Morocco to the United Nations Office at Geneva explained at length the investigation carried out by its Government in relation to cases of disappearance of Saharans.

353. The Government stated that, in view of the inadequacy and inaccuracy of the information transmitted concerning cases of Saharans presumed to have disappeared in Morocco and knowing for a fact that a large number of these persons had been and were still being held by the POLISARIO Front, the Moroccan Government, desirous of cooperating with the Working Group, had nevertheless instructed the competent administrative and judicial authorities to conduct investigations in order to meet the concern expressed by the Working Group about the above-mentioned allegations of disappearances.

354. The Government regretted, however, that the information and observations communicated in its note of 3 December 1991 as well as in other replies had been insufficiently taken into account in the observations of the Working

Group, which relied mainly on the information and reactions provided by the Association of Relatives of Saharan Prisoners and Detainees (AFAPREDESA), its source of information.

355. The Government indicated, as it had done on other occasions, inter alia in its replies to requests for information by the Centre for Human Rights, that AFAPREDESA, the source of the allegations transmitted to the Working Group and various NGOs, was notorious for its close links with the POLISARIO Front. Moreover, the Government wished to recall that it had informed the Working Group that the investigations concerning Saharans alleged to have disappeared in Morocco could not be successfully completed unless more detailed information about them, such as place of birth and identity card number, was provided. The Saharans presumed to have disappeared in Morocco were often unknown to the Moroccan authorities. Some of them might be living in the territory of the two States neighbouring Morocco or might be held against their will in the POLISARIO camps.

356. In reply to allegations by non-governmental organizations, the delegation of Morocco, in its statement at the forty-eighth session of the Commission on Human Rights, had drawn attention to a statement by a CETIM official who admitted that she had "managed to find people who had been reported as having disappeared in the POLISARIO camps". This admission clearly corroborated the Moroccan contention that the persons reported to have disappeared were in actual fact being held in the camps in Tindouf. A statement was presented to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-fourth session, in August 1992, by a woman who had allegedly spent more than 17 years in one of the Tindouf camps, a women's detention centre, while dozens of other women - single mothers, refugees and political opponents - had been detained in disastrous health conditions and subjected to ill-treatment. Many of their children had died because of these most precarious living conditions. Since the entry into force of the cease-fire the previous year, many civilians and military personnel detained in Tindouf camps had been prevented by POLISARIO from leaving those places and returning to their homes. Consequently, the Government, desirous of maintaining close cooperation with the Working Group, requested it in its note verbale dated 9 October 1992, to provide more detailed information on the allegations concerning disappearances of Saharans in Morocco, and particularly their place of birth and their identity card numbers.

357. In another note verbale of 25 November 1992, the Government of Morocco indicated that the Ministry of Justice had fully rejected the assumption that Morocco was using "disappearances" as a method of punishing political opponents. The detention of Saharans in fortresses or secret detention centres without contact with the outside world was a method that the Government of Morocco disapproved of and had never thought of implementing on its own territory.

358. Finally, by note verbale of 7 October 1992, the Government of Morocco provided a reply to the tentative considerations formulated by the Working Group on the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	204
III.	Total number of cases transmitted to the Government by the Working Group	230
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's responses	0
V.	Cases clarified by non-governmental sources a/	26

a/ Persons dead: 4

Persons released: 22.

Mozambique

Information reviewed and transmitted to the Government

359. The Working Group's activities in relation to Mozambique are recorded in its last four reports to the Commission. 1/

360. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of Mozambique of the one case transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, it explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become essential and urgent in order to clarify the above outstanding case, for which no information had ever been received, after four years. At the time of the adoption of the present report, no reply to the Working Group's letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing person.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Case clarified by a Government response	0

Myanmar

Information reviewed and transmitted to the Government

361. The Working Group's activities in relation to Myanmar are recorded in its previous report to the Commission. 1/

362. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June the Government was reminded of one outstanding case transmitted in the past. One case was considered clarified during the thirty-eighth session of the Working Group on the basis of information received from the Government and upon which no further observation had been formulated by the source.

363. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

364. Information on Myanmar was received from Amnesty International, Asia Watch, Lawyers Committee for Human Rights and other organizations. These organizations stated that in 1992 numerous cases of disappearance had allegedly occurred in Myanmar; however, information on those cases was not available because it was very difficult to release it outside the country. It was alleged that victims of disappearance included opposition political leaders elected to parliament in the May 1991 elections, leaders of ethnic minorities, students and other civilians who had spoken out against the military Government, as well as individuals who had resisted forced relocation and/or were serving in the army as porters, labourers or even "human minesweeps", and women who had attempted to resist rape by officials.

365. Sources reported that thousands of persons had fled the country due to those human rights conditions and had sought asylum in neighbouring countries, including Thailand, Bangladesh, India, China and Malaysia. During the reporting period, up to 250,000 persons from the northern state of Arakan, who were known as Rohingyas and who were principally Muslims, had sought refuge in Bangladesh. Although a repatriation programme had been instituted by the

government authorities, many of those refugees had refused to return, despite the extreme physical hardship the situation had engendered, because of fear of ill-treatment upon return.

Information and views received from the Government

366. By a note verbale dated 20 November 1992, the Permanent Mission of Myanmar to the United Nations Office at Geneva transmitted a reply from the Government in connection with two outstanding cases of disappearance and noted that one case was to be considered clarified. According to this letter, the allegations of a general nature received from non-governmental organizations, that had been transmitted to the Government by the Working Group were sweeping and unfounded.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	2
IV.	Case clarified by a Government response	1

Nepal

Information reviewed and transmitted to the Government

367. The Working Group's activities in relation to Nepal are recorded in its last five reports to the Commission. 1/

368. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of Nepal of the four cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided at its thirty-seventh session to address once more a particular reminder to the Government. In a letter dated 4 September 1992, it explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become essential and urgent in order to clarify the above outstanding cases, for which no information had ever been received, after seven years. At the time of the adoption of the present report, no reply to the Working Group's letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

369. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Information and views received from relatives of missing persons or from non-governmental organizations

370. Some non-governmental organizations reported that, while the number of human rights violations reported had diminished during the current year and no new cases of disappearance had been reported since the interim Government came to power in 1990, most of the past cases of disappearance, which occurred either in the mid-1980s or during the 1990 Movement for the Restoration of Democracy, had remained unclarified. In addition, those responsible for past disappearances or other violations had not been brought to justice.

371. Certain encouraging steps had been taken. Shortly after the elections held in May 1991, the Government acceded to the International Covenant on Civil and Political Rights and the Optional Protocol thereto, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The new Constitution, drafted in November of 1990 during the interim Government of Prime Minister Krishna Prasad Bhattarai, provided greater protection against human rights abuses; yet derogations allowed for during states of emergency might still contribute to an overall situation in which disappearances would be more likely to take place. In addition, legal and procedural safeguards for the enforcement of these newly accepted standards had not yet been developed.

372. Furthermore, it was reported that the interim Government had also established a commission to investigate past cases of disappearance, but no independent investigations had yet taken place regarding the commission's findings, its report had not been made public and no person alleged to have been responsible for any of the disappearances had yet been brought to trial.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses	0
V.	Cases clarified by non-governmental sources a/	1

a/ Person released: 1.

Nicaragua

Information reviewed and transmitted to the Government

373. The Working Group's activities in relation to Nicaragua are recorded in its 12 previous reports to the Commission. 1/

374. No cases of disappearance were reported to have occurred in 1992. However, by letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after seven years.

375. At the time of the adoption of the present report, no reply to this request had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	101
III.	Total number of cases transmitted to the Government by the Working Group	232
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	175
	(b) Cases clarified by the Government's responses a/	112
V.	Cases clarified by non-governmental sources b/	19

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a/ Persons in prison: 7
Persons dead: 64
Persons at liberty: 16
Persons who joined counter-revolutionary forces: 12
Persons abducted by counter-revolutionary forces: 2
Salvadorian fishermen not detained in the country: 11

b/ Persons who died in armed confrontations: 11
Persons at liberty: 4
Persons in prison: 2

Nigeria

Information reviewed and transmitted to the Government

376. During the period under review, the Working Group transmitted to the Government of Nigeria three newly reported cases of disappearance which had reportedly occurred in 1992, by cable under the urgent action procedure. No response has been received so far.

377. The cases transmitted to the Government were submitted by the International Organization Against Torture and they concern a barrister and president of the National Association of Democratic Lawyers and two other human rights workers and leaders of the Committee for the Defence of Human Rights and of the "Campaign for Democracy", a coalition of various political and human rights organizations. Their arrest had allegedly taken place following two days of protest against the military rule in Nigeria. The police had reportedly carried out the arrest.

Statistical summary

I.	Cases reported to have occurred in 1992	3
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	0

Pakistan*

Information reviewed and transmitted to the Government

378. The Working Group's activities in relation to Pakistan are recorded in its three previous reports to the Commission. 1/

379. During the period under review, no cases of disappearance were transmitted to the Government of Pakistan. By letter dated 15 December 1992 the Working Group retransmitted to the Government a total of eight cases containing additional information received from the sources. By letters dated 19 June and 23 September 1992, the Working Group reminded the Government of all outstanding cases transmitted in the past.

380. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

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* Mr. Agha Hilaly did not participate in the decisions relating to

Information and views received from relatives of missing persons or from non-governmental organizations

381. The Working Group received reports of a general nature related to disappearances from the Pakistan People's Party, Amnesty International and relatives of missing persons. They stated that the Afghan mujahedin had been holding numerous prisoners in detention centres on Pakistani soil, allegedly with the acquiescence of the authorities. It had been estimated that approximately a thousand persons were imprisoned in locations such as Shamshatoo, Munda and Warsak near Peshawar before the recent change of government in Afghanistan. The majority of those persons, whose disappearance had been brought to the attention of the Pakistani authorities, were believed to be detained in the centre located in Shamshatoo that was reportedly controlled by Hezbe Islami (Hikmatyar).

Information and views received from the Government

382. In a note verbale dated 14 May 1992, the Government informed the Working Group with regard to one of the missing persons of Afghan nationality that his abduction was thought to have been politically motivated since his ideas reportedly opposed those of a rival group to which his abduction was attributed, although they were said to have vehemently denied the charge. No clear facts concerning the responsibility for the abduction were reportedly established by any authority.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	15
III.	Total number of cases transmitted to the Government by the Working Group	15
IV.	Government responses	1

Paraguay

Information reviewed and transmitted to the Government

383. The Working Group's activities in relation to Paraguay are recorded in its last 10 reports to the Commission. 1/

384. No case of disappearance was reported to have occurred in 1992. However, by letter dated 19 June 1992, the Working Group reminded the Government of the three outstanding cases. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after seven years.

Information and views received from the Government

385. By a note verbale dated 23 November 1992, the Government stated, with respect to the three outstanding cases, that the investigation still continued. In this connection, several persons had recently been requested to give evidence before the judge in charge of the proceedings.

386. The Group also received from the Government of Paraguay a reply relating to the tentative considerations it had formulated in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	23
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	23
	(b) Cases clarified by the Government's responses a/	20

a/ Persons arrested or abducted in Argentina: 5
Persons arrested and expelled to Brazil: 4
Persons detained and released: 4
Persons transferred to Argentina: 2
Persons transferred to Uruguay: 2
Persons dead: 1
Persons living abroad: 2.

Peru */

Information reviewed and transmitted to the Government

387. The Working Group's activities in relation to Peru are recorded in its previous 11 reports to the Commission. 1/

388. During the period under review, the Working Group transmitted 339 newly reported cases of disappearance to the Government of Peru, of which 151 were reported to have occurred in 1992; 119 of those cases were transmitted by cable under the urgent action procedure and 28 of them were clarified in 1992.

*/ Mr. Diego Garcia-Sayán did not participate in the decisions relating to this subsection of the report.

The Group also retransmitted to the Government a total of 38 cases containing additional information or observations on the Government replies submitted by the sources.

389. By letters dated 19 June and 13 December 1992, the Government was notified that 54 cases were now considered clarified, 18 based on its replies and 36 on the basis of further information provided by the source. The Government was also informed that in 35 cases the Group had applied the six-month rule. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

390. In accordance with resolution 1992/59, the Working Group sent to the Government of Peru a "prompt intervention" cable requesting protection for four officials of the Office of the Attorney General who were in charge of the investigation in the case of disappeared peasants whose dead bodies had later been found and identified and for members of their families. It also sent a similar cable on behalf of a leader of an association of relatives of missing persons.

Follow-up on observations and recommendations made by the Working Group during its visits to Peru in 1985 and 1986

391. In accordance with paragraph 11 of Commission resolution 1992/30, by a letter dated 23 September 1992 the Working Group addressed to the Government of Peru a letter containing a number of questions relating to the Working Group's observations and recommendations contained in two reports on visits to Peru. The questions referred to the following issues: (a) sanctions provided for by law in respect of military authorities or their subordinates who do not obey the instructions they had received to admit the entry of officials of the Office of the Attorney General to military installations; (b) measures taken to provide support for the work of the judiciary; (c) court jurisdiction to hear crimes committed by the civil defence forces; (d) rules governing the activities of civil defence forces; (e) training given to these forces and how their activities are supervised; (f) records or registries of detention and their availability to relatives of missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

392. Reports on disappearances and general information on the situation in Peru as well as reports on missions to that country in connection with human rights issues were received from Amnesty International, the Association for Human Rights (APRODEH), the National Association of Relatives of Abducted Persons and Disappeared Detainees in the Zones under State of Emergency in Peru (ANFASEP), the Centre of Study and Action for Peace (CEAPAZ), the

Episcopal Social Action Commission (CEAS), the National Human Rights Coordinating Body (CNDDH), and the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM). Several other organizations throughout the world also sent requests for action concerning individual cases occurring in Peru which had been previously reported by local organizations.

393. One hundred and fifty-one of the cases transmitted were reported to have occurred in 1992, and 158 cases were reported to have occurred in 1991. The forces alleged to be responsible for the disappearances were the army, the police (including its different specialized branches such as the Directorate against Terrorism (DIRCOTE) and its different corps such as the Policía Técnica, and Policía General), a security service or specialized branch of the army, and civil defence groups.

394. Several organizations also reported that the Government had added a new source of insecurity and political distress by violating the Constitution in a country already seriously afflicted by terrorism and drug trafficking. Decree-Law No. 25418 of 5 April 1991, issued by the executive on 6 April 1992, provided for the dissolution of Congress, suspended all those articles of the Constitution and the laws that contradicted the measures contained in the decree-law, and set out the aims of the newly created Government of Emergency and National Reconstruction. This action by the executive, which was implemented by the military forces, put an end to the work of parliamentary commissions concerned with human rights.

395. In addition to a decree-law establishing criminal responsibility for people between 15 and 18 years old in offences related to terrorism, Decree-Law 25.659 of 13 August 1992 established, in relation to offences defined as terrorism, that during the investigation of and trial for such offences, habeas corpus petitions would not be admissible for the protection of the detainees.

396. In May 1992, the executive decided to derogate from a number of provisions of the Penal Code, among them those describing and punishing the crime of enforced disappearance. On 2 July, a decree re-establishing that crime was issued by the executive. The new law, like the previous one, provided for the punishment of any public official who deprived a person of his liberty by ordering or carrying out any action resulting in the disappearance of the person. The description of the crime and the penalties established for those found responsible were exactly the same as those of the Penal Code; the main difference was that under the new provisions the disappearance must be "conclusively" proved. From a legal point of view this might appear to be redundant. However, judges could interpret it to mean that indirect or circumstantial evidence, e.g. the testimony of relatives, which is generally the only evidence available in this kind of case, was insufficient to prove a disappearance "conclusively".

397. The majority of the victims of disappearance continued to be members of peasant communities living in areas where armed opposition groups were active. Responsibility for the disappearances appeared to lie with the military commands of the areas where they occurred. According to numerous eye-witnesses, detentions leading to disappearances were in general carried out by uniformed army or police personnel or by civil defence groups under

military control. While civil defence groups sometimes appeared to be conducting operations, including abductions and detentions, on their own, evidence obtained in certain cases has shown that they generally took prisoners to military barracks.

398. Although a registry of detainees was supposed to be held centrally in the Joint Command of the Armed Forces in Lima, the practice by the military forces of acknowledging that a prisoner was detained only as of the date on which he/she was transferred from military to police custody continued to be the rule. Since relatives of the missing persons, their lawyers or the Public Prosecutor were not given access to the registry, the information they received at barracks or police stations could not be checked.

399. One of the main factors contributing to continued human rights violations against unarmed civilians was that, in the great majority of individual cases, no serious investigations had been initiated; in only a very few cases had the alleged perpetrators been brought to justice and in only one case had a military tribunal issued a guilty verdict: a former army officer was convicted of the murder of 30 peasants in Accomarca, Ayacucho, in August 1985.

400. The judiciary and the Public Ministry seemed to be unable to cope with the large number of cases reported to them and they often carried out their tasks in a perfunctory manner, owing either to a lack of resources or to constraints imposed by the limited cooperation received from administrative and military authorities, particularly in zones under a state of emergency. Newly established institutions charged with investigating human rights violations, such as the Office for Pacification and Human Rights of the National Police and other similar offices established within the Interior Sector, seemed to enlarge bureaucracy without demonstrating a true political will on the part of the Government to put an end to human rights violations. The firm support of the Public Ministry and the judiciary for the investigations carried out might constitute a more efficient contribution to that end.

401. In relation to civil defence groups, some sources were alarmed at the policy of the Government of distributing guns to peasants participating in those groups. It was stated that arms, which peasants were obliged to accept, increased their risk of becoming victims of violence and put them in a situation in which they were obliged to choose sides as the only means of protecting themselves. This increased the danger of renewed brutality by terrorist groups and their victimization of unarmed people (women, children and elderly persons) linked to those belonging to the civil defence. It was suggested that violence would end only when the Government changed its policy of violence for a policy of development.

402. All the non-governmental organizations acknowledged that Peru was experiencing a situation of extreme violence and that the terrorist activities of armed opposition groups constituted one of the most important factors contributing to insecurity in the country. The view was expressed, however, that the strengthening of democratic institutions and the independence of the judiciary, as well as the provision of funds for the activities and the

protection of judges and public prosecutors, would help to make their action more efficient in the prosecution and punishment of those found to be responsible for the violence.

403. The view was also expressed that enhancing the participation of the civil authorities and the population in general in the conduct of the civil administration and government, rather than a military solution, would result in greater support from the population for anti-terrorist activities and would contribute to diminishing the social cost of the solution to the conflict.

Information and views provided by the Government

404. In relation to questions put to the Government by the Working Group in a follow-up letter relating to observations and recommendations included in the Group's report on visits made to Peru in 1985 and 1986, in a note verbale dated 15 May 1992 the Government referred to new legislation and other steps taken in accordance with such recommendations. The following legislation was mentioned, inter alia: a Presidential Directive concerning respect for human rights, adopted by the Council of Ministers on 12 November 1991; Legislative Decree No. 665 of 2 September 1991, authorizing representatives of the Attorney General's Office to enter military and police stations to check whether there were any detainees; Supreme Decree No. 064-91.DE/SG of 8 November 1991, concerning the procedures to be observed to facilitate the deployment of operations in emergency areas so as to ensure that human rights remained in effect and were being safeguarded; and ministerial resolutions creating human rights offices and a National Human Rights Committee in the Interior Sector.

405. The Government also reported that inspectors had been appointed to deal with human rights issues who were authorized to enter police headquarters, prefectures, military facilities and any detention centre in emergency areas to investigate the situation of prisoners or persons reported as having disappeared. It also reported that instructions had been passed by the Joint Command of the Armed Forces concerning the safeguard of human rights and the access of judicial authorities and the Attorney General's Office to military facilities.

406. In relation to measures taken to ensure accountability for cases of disappearance in which officials and law enforcement forces were involved, the Government replied that all cases of human rights violations related to disappearances within the competence of the Ministry of Defence were investigated exhaustively. Regrettably, many of the reports concerned disappearances which were attributable to subversive groups, and these were difficult to clarify convincingly because of the covert methods used by those groups.

407. Pursuant to the Attorney General's Office Organization Act and the Judiciary Organization Act, the Attorney General's Office and the judiciary were both required to carry out the necessary investigations. If a member of the armed forces or National Police was implicated, he or she would be investigated by a special court whenever the offence occurred during the performance of duties or the exercise of functions.

408. Regarding pressure, threats or reprisals against the judiciary, the Government stated that violent groups, by virtue of the use of terror and extreme brutality in their criminal acts, frequently secured the release of captured subversives at the judicial stage. It further stated that the independence of the judiciary was given specific recognition in the Political Constitution of the State, the Ministry of the Interior being the body responsible for affording the necessary protection to the members of the judiciary.

409. The Government further stated that detentions in emergency areas were monitored and recorded at the fronts and daily reports thereon were sent to the Armed Forces Joint Command. These reports were consolidated and sent to the Ministry of Defence for the information of the agencies concerned. The treatment of the detainees was regulated by specific instructions issued at the various levels of the armed forces and the National Police with a view to implementing international standards on the matter. In addition, educational programmes in the area of human rights had been prepared for inclusion in the curriculum for officers, cadets, support staff and troops, and a national plan disseminating and providing instruction about the Political Constitution of Peru and international human rights instruments was being implemented.

410. Finally, the Government indicated that two supreme decrees regulated visits by authorities to military and police installations, which included representatives from the International Committee of the Red Cross (ICRC), whose work had been facilitated, since it had been allowed to visit any type of detention centre.

411. By note verbale dated 7 July 1992, the Permanent Mission of Peru informed the Working Group that the Government had adopted Decree-Law 25592 entitled "Custodial penalties for public servants who deprive a person of his liberty by ordering or carrying out action resulting in his disappearance". Penalties established in the decree-law are no fewer than 15 years' imprisonment and disqualification, and measures provided for include the immediate communication of the complaints by the police to prosecutors and the investigation of such complaints by the relevant prosecutors.

412. In a letter dated 10 November 1992, the Government of Peru provided further information on questions sent to it by the Working Group in its letter of 23 September 1992. At the Working Group's thirty-eighth session, the same issues were addressed by the Permanent Representative of Peru to the United Nations office at Geneva in a meeting he had with the Working Group. In the note verbale as well as in the representative's statement, it was stated that the reports transmitted to the Government did not contain the number of the missing person's electoral card or any other identity document and no mention was made of the Public Prosecutor's Office or the police station or military post at which the corresponding complaint had been made.

413. As to the number of replies transmitted by the Peruvian Government and the number of cases that had been cleared up, the Government of Peru did not share the Working Group's conclusion that investigations were slower or that the number of cases solved had fallen. Indeed, the introduction of arrangements to follow up complaints with various national institutions was producing good results and it had been found that each case was identified and

the investigation was started sooner, despite the fact that the information sent by the Centre for Human Rights was often inadequate. The number of concrete replies had also increased and was expected to grow as the methods for transmitting and distributing complaints improved.

414. The Government stated that it was currently implementing a "National Registry of Detainees" project. The register provided a database for proper identification of all persons held by authorities of the Ministry of the Interior and Ministry of Defence.

415. In pursuance of Commission resolution 1992/42, the Government of Peru sent several notes verbales from 18 March to 2 December 1992. In those communications, it reported on terrorist acts committed by two armed groups known as Shining Path and Tupac Amora Revolutionary Movement. According to this information 306 members of the security forces, 1,029 civilians, 329 subversives and 10 drug traffickers had died in 1992 due to the political violence in Peru. Among the civilians, 43 professionals, 26 businessmen, 98 workers, 379 peasants, 164 members of rural patrols, 27 grass-roots leaders, 210 shanty-town dwellers, 25 students, 50 officials, 6 foreigners and one member of an urban patrol were included. The estimated total economic cost of the violence in 1992 was 92,140 million dollars. Among the crimes committed by the above-mentioned terrorist groups, those against grass-roots leaders who had opposed their action were particularly condemned inside and outside Peru; among them, the murder of Maria Elena Moyano, the President of the Women's Popular Federation of Villa El Salvador, who had accused Shining Path of "hindering the achievement of alternative forms of peaceful development through communities like Villa El Salvador".

Statistical summary

I.	Cases reported to have occurred in 1992	112
II.	Outstanding cases	2,327
III.	Total number of cases transmitted to the Government by the Working Group	2,836
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	540
	(b) Cases clarified by the Government's responses a/	132
V.	Cases clarified by non-governmental sources b/	377

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a/ Persons detained: 23
Persons arrested and released: 54
Persons who obtained a voter's card after the date of their alleged disappearance: 29
Persons found dead: 16
Persons at liberty: 7
Persons abducted by rebels: 1
Persons escaped from a detention centre: 2.

b/ Persons whose dead bodies were found and identified: 65
Persons released from detention: 243
Persons in prison: 51
Persons taken to a hospital after detention: 2
Persons at liberty: 13
Persons drafted in the Army: 3.

Philippines

Information reviewed and transmitted to the Government

416. The working Group's activities in relation to the Philippines are recorded in its previous 10 reports to the Commission. 1/

417. During the period under review, the Working Group transmitted 24 newly reported cases of disappearance to the Government of the Philippines, of which 17 were reported to have occurred in 1992. Sixteen cases were transmitted by cable under the urgent action procedure and one of these cases was clarified in 1992.

418. By letters dated 19 June, 23 September and 15 December 1992, the Government was notified that four cases were considered clarified, three based on its replies and one on the basis of further information provided by the

sources. The Government was also informed that in 15 cases the Group would consider the Government's reply as a clarification of the cases, provided that the source did not submit observations on those replies within a six-month period.

419. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June, the Working Group reminded the Government of all outstanding cases.

420. In a letter dated 23 September 1992, the Working Group informed the Government of allegations of a general nature it had received concerning the phenomenon of disappearance in the country or the solution of the cases not yet clarified.

Follow-up on observations and recommendations made by the Working Group during its visit to the Philippines in 1990

421. In accordance with a decision taken by the Working Group at its thirty-seventh session, a letter dated 21 September 1992 was sent to the Government as follow-up on the observations formulated by the Working Group in its report on the mission to that country in 1990, containing new questions involving substantive issues and measures recommended by the Group. These questions referred, in particular, to: legislation concerning powers of arrest for public officials; judicial proceedings against officers having contributed to or failed to prevent disappearances; steps taken by the Government to stop the practice of "red-labelling" and with respect to the issues of lists of detainees, safe-houses and spot-checks in places of detention (recommendations in the Working Group's report E/CN.4/1991/20/Add.1, para. 168 (c) and (g)); operations undertaken by the Citizens Armed Forces Geographical Units (CAFGUs); the pattern of conduct of military personnel vis-à-vis representatives of human rights groups or associations in search of missing persons in military detention camps; and the strengthening of the habeas corpus procedure.

Information and views received from relatives of missing persons or from non-governmental organizations

422. The majority of the newly reported cases of disappearance were submitted by Task Force Detainees in the Philippines, Amnesty International, Regional Council on Human Rights in Asia, World Organization Against Torture and the International Commission of Jurists. The forces often cited to be responsible were the 6th Infantry Batallion of the Philippines Army, the Citizens Armed Forces Geographical Units (CAFGUs) and unidentified military agents. Most of the missing persons reported in 1992 were farmers. One of them was a manual worker, another was a truck driver.

423. In addition, reports on the human rights situation in the country were received from the Regional Council on Human Rights in Asia, the World Student Christian Federation and the Philippine Alliance of Human Rights Advocates.

424. According to allegations received from non-governmental organizations concerning the situation of human rights in the Philippines, despite the

positive measures taken by the Government to protect and promote human rights, such as civilian control of the police force, legislation on the prosecution of military and police offenders by civil courts and protection of witnesses, none of them had been effective in preventing the occurrence of human rights violations, in bringing the alleged perpetrators to justice, or in protecting witnesses and victims.

425. Furthermore, it was alleged that effective investigation of human rights violations and related prosecutions continued to be impeded by security forces, by means of intimidation of judges, lawyers, witnesses and complainants.

426. Disappearances continued to occur; among the victims were members of legal, political and social organizations who were accused of belonging to armed opposition groups alleged to be "fronts" of the outlawed Communist Party of the Philippines, New People's Army (CPP/NPA). The disappearances, however, did not occur in all the regions of the country. This reportedly depended on the military personnel assigned to the area, the participation of paramilitary units, and the strength of the insurgency in the area as perceived by the military/paramilitary units.

427. According to various Philippine human rights organizations, in the last few months military operations affecting the civilian population had taken place continuously as a reaction to insurgent actions in areas such as Marag Valley, Northern Luzon and Iloilo.

428. The new defence budget being proposed by the Government for 1993 included a 44 per cent increase in the funds for the CAFGUs. Meanwhile, the authorized troops ceiling would be raised to 81,500 regulars, almost double the 45,000 of three years ago. In addition to the reinforcement of CAFGUs, the Government was allegedly attempting to set up auxiliary police forces (AFP) in cities. Among other tasks, these auxiliary forces had been mandated to undertake surveillance of suspicious persons and vehicles, undertake citizen's (warrantless) arrests and assist in crowd dispersal and control.

429. It was further stated that there were no viable remedies for enforced or involuntary disappearances. Habeas corpus petitions were undercut by judicial resolutions. The Philippine Commission on Human Rights (PCHR) had not gained the confidence of the victims of human rights violations, nor had it successfully prosecuted many of the violators, whereas the Presidential Human Rights Committee remained an advisory body, with no prosecutorial or remedial powers.

430. It was pointed out that in many cases the relatives of the victims, their lawyers or non-governmental organizations had attempted to find the disappeared persons on their own, because they lacked faith in governmental remedies. It was also alleged that the relatives of victims did not take formal steps against the military personnel believed responsible for disappearances, for fear of possible retaliation.

431. Some organizations informed the Working Group about the passing, in February 1992, of Law No. 7438 on the rights of arrested persons. This law was approved by President Aquino in April 1992 and stipulated that persons

arrested, detained or under custodial investigation should always be assisted by counsel when invited to a military camp for questioning. The law further provided that: (a) detainees should always be informed of their right to remain silent and their right to the counsel of their choice; (b) investigating officers should file reports which should be in writing and should be signed or thumbmarked by the person detained; (c) the detainee should be allowed visits with his immediate family, a medical doctor, a priest, counsel, a national non-governmental organization accredited by the Philippines Commission on Human Rights or an international non-governmental organization accredited by the Office of the President; (d) failure by a public or investigating officer to inform a detainee of his rights, or to provide counsel to the detainee, was punishable by a prison term of 8 to 10 years, a fine of P 6,000 or both.

432. Despite this law, particular concern was expressed at the fact that detainees were not automatically granted access to lawyers. This, together with Supreme Court decisions strengthening the arrest and detention powers of the police and military forces, made disappearances more likely to occur. This was evidenced by one incident in which military officials had acknowledged inviting a person for questioning, but said they had released him the same day. His whereabouts remained unknown.

433. It was also stressed that the above-mentioned positive initiatives by the Government should be accompanied by a sustained commitment to the implementation of the reforms and the elimination of the factors that sustained impunity for the perpetrators of human rights violations.

Information and views received from the Government

434. By letters dated 14 January, 6 February, 17 March, 20 and 27 May, 13, 18 and 31 August, 1, 21 and 23 September, and 23 October 1992, and by note verbale of 22 May 1992, the Government provided information on 15 cases of disappearance previously transmitted by the Working Group. Most of this information was forwarded by PCHR. Four cases of disappearance were considered closed because the names of the victims or the places of arrest could not be traced with certainty. Another case had been closed because of lack of evidence, as it appeared possible that the missing person might have been the victim of a petty crime. For seven other cases of disappearance, it was found that the persons concerned had been released from military custody and that five of them had resumed a normal professional and family life. In the case of five village farmers seized by Philippine Army soldiers following an ambush with insurgents, an affidavit executed after their release showed evidence that the victims had been physically and mentally ill-treated, as well as interrogated during four nights. Finally, investigation of one case led to the discovery of the victim's cadavar in a shallow grave, whereas search for witnesses still continued.

435. By note verbale dated 18 July 1991, the Government of the Philippines provided a reply to the tentative considerations on the question of impunity submitted to it by the Working Group.

436. Finally, by letter of 31 August 1992, the Government transmitted to the Working Group a communication of PCHR in relation to the consequences of acts

of violence committed by armed groups and drug traffickers that spread terror among the population (Commission resolution 1992/42).

437. It was stressed by PCHR that during the period 1990-1992, despite peace talks initiated by the Government, severe human rights violations had been persistently committed by CPP/NPA, the Moro National Liberation Front (MNLF) and the Mindanao Islamic Liberation Front. But cases of human rights violations had also been attributed to the CAFGUs and to the Civilian Volunteer Organizations (CVO). The human rights violations recorded often included burning, looting, bombing or grenade throwing, robbery, extortion, and forced evacuation or displacement of people. As a result, several thousand people had reportedly been killed or wounded in ambushes, raids or attacks, or kidnapped, taken hostage or harassed in various ways. Victims were to be found in all sections of the Philippine population. The majority of them were civilians ranging from public officials, members of cause-oriented organizations, rural/urban industrial workers, women and children, or prisoners and detainees. But victims also included soldiers, members of CAFGUs, of the military police and of paramilitary elements.

Statistical summary

I.	Cases reported to have occurred in 1992	17
II.	Outstanding cases	517
III.	Total number of cases transmitted to the Government by the Working Group	629
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	571
	(b) Cases clarified by the Government's responses a/	91
V.	Cases clarified by non-governmental sources b/	21

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a/ Persons dead: 17
Persons located and identified: 2
Persons in prison: 6
Persons living abroad: 2
Persons released from detention: 53
Persons at liberty: 8
Persons escaped from prison: 3.

b/ Persons dead: 3
Persons in prison: 6
Persons released from detention: 7
Persons at liberty: 3
Persons escaped: 2.

Romania

Information reviewed and transmitted to the Government

438. During the period under review, the Working Group transmitted one reported case of disappearance that occurred in 1990 to the Government of Romania. The case was transmitted by Amnesty International and concerned a schoolboy aged 15 who had been reported missing after he had been arrested and detained at a military camp in connection with the 13 June 1990 disturbances in Bucharest. All subsequent inquiries and appeals to the competent authorities by his family and human rights groups had been in vain.

439. Since this case was transmitted to the Government of Romania on 15 December 1992, it must be understood, in accordance with the Working Group's methods of work, that the Government could not respond prior to the adoption of the present report.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Russian Federation

Information reviewed and transmitted to the Government

440. During the period under review, the Working Group transmitted two reported cases of disappearance that occurred in 1992 to the Government of the Russian Federation. The cases were transmitted by the World Organization Against Torture and concerned two medical doctors who had been abducted by Trans-Dniester guards at their hospital in Slobadzeye, Moldova. At the time of the adoption of the present report, no information from the Government of the Russian Federation had been received by the Working Group with regard to these cases.

Statistical summary

I.	Cases reported to have occurred in 1992	2
II.	Outstanding cases	2
III.	Total number of cases transmitted to the Government by the Working Group	2
IV.	Government responses	0

Rwanda

Information reviewed and transmitted to the Government

441. During the period under review, the Working Group transmitted by letter dated 19 June 1992 five reported cases of disappearance to the Government of Rwanda. It expressed the hope that appropriate investigations would be undertaken by the competent authorities with a view to clarifying the fate and whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

442. The above cases of disappearance were submitted by Amnesty International. This organization also provided the Working Group with information of a general nature regarding the situation of human rights in Rwanda.

443. It was reported that in October 1990, the outbreak of a rebellion in northern Rwanda led by the Front patriotique rwandais (FPR), composed mainly of Uganda-based members of the Tutsi tribe, met a strong government reaction. The ethnic conflict between Hutu (the ruling majority) and Tutsi (the ethnic minority deposed from power in 1959) had deep historical roots. In 1990 and 1991, thousands of suspected FPR supporters (mainly Tutsi) were arrested. The conflict also generated violence by the military and ordinary Hutu civilians or vigilantes, who killed many Tutsi. Hundreds of civilians were reportedly executed. The executions allegedly amounted to the murder of unarmed civilians who might have had nothing to do with the armed opposition, but who were targeted because they belonged to the Tutsi ethnic group. A number of civilians who had been incarcerated were later reported to have disappeared; they were also feared to have been killed while in custody, during their transfer from one prison to another or within the prison precinct, and buried secretly.

444. Torture and ill-treatment had reportedly been widely used to punish suspected supporters of the rebellion and critics of the Government. Although most of the 8,000 people arrested during the FPR rebellion were released by mid-1991 or early 1992, dozens of disappearances remained still unclarified.

445. The impunity of human rights violators appeared to have encouraged others to carry out further abuses, and nobody was known to have been brought to justice for having violated human rights. Government officials had acknowledged some killings, but maintained that government forces were not responsible. However, this official denial had not been backed by the findings of formal investigations.

Information and views received from the Government

446. At the time of the adoption of the present report, no information had yet been received by the Working Group with regard to any steps taken by the Government of Rwanda to investigate the whereabouts of the alleged missing persons. However, the Group received a reply from the Government relating to the tentative considerations it had formulated in relation to the question of impunity.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	5
III.	Total number of cases transmitted to the Government by the Working Group	5
IV.	Government responses	0

Saudi Arabia

447. During the current year, the Working Group transmitted to the Government of Saudi Arabia, by cable under the urgent action procedure, one case of enforced or involuntary disappearance, which reportedly occurred in January 1992. The case was submitted by the International Commission of Jurists and concerned a Saudi businessman reportedly extradited from Jordan to Saudi Arabia; according to the source, the Saudi Arabian authorities had denied that he was in detention.

448. The Government of Saudi Arabia was reminded of this outstanding case by a letter dated 17 July 1992. However, at the time of the adoption of the present report, no information had yet been received by the Working Group with regard to steps taken by the Saudi Arabian authorities to investigate the whereabouts of the alleged missing person.

Statistical summary

I.	Cases reported to have occurred in 1992	1
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses	0

Seychelles

Information reviewed and transmitted to the Government

449. The Working Group's activities in relation to Seychelles are recorded in its seven previous reports to the Commission. 1/

450. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of the three outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights,

the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after seven years.

451. At the time of the adoption of the present report, no reply to this last letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	3
III.	Total number of cases transmitted to the Government by the Working Group	3
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by Government's responses	0

South Africa

Information reviewed and transmitted to the Government

452. The Working Group's activities in relation to enforced or involuntary disappearances in South Africa are recorded in its last 11 reports to the Commission. 1/

453. There were no reported cases of disappearance in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of South Africa of the seven outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after seven years.

454. Summaries of outstanding cases of enforced or involuntary disappearance attributed to the forces of South Africa which had occurred within Namibian territory had been transmitted in 1991 to the Government of Namibia for its information only but with the hope that the Government of Namibia would be in a position to contribute to the clarification of such cases. At the time of the adoption of the present report, no reply to this request had been received by the Working Group, which decided to renew its request for cooperation. This was done by a letter dated 15 December 1992.

Information and views received from the Government

455. In a letter dated 29 September 1992, the Permanent Mission of South Africa to the United Nations Office at Geneva reiterated to the Working Group the information already contained in its replies of 1989 and 1991, namely that the South African Police were unable to add any further information other than that already available with regard to the mentioned cases. It also added that with regard to the six cases which had apparently occurred within Namibian territory, the South African authorities had no jurisdiction over that territory, nor had they any means of conducting any investigations on that territory. The Government mentioned that it was a known fact that numerous persons who had previously left Namibia, gone into hiding or assumed false identities, had now returned to Namibia and resumed a normal life there. It suggested that the cases be taken up with the Namibian authorities as it was entirely possible that the people concerned were currently living in that country.

Statistical summary

I.	Cases reported to have occurred in 1991	0
II.	Outstanding cases	8
III.	Total number of cases transmitted to the Government by the Working Group	10
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	10
	(b) Cases clarified by the Government's responses	2

Sri Lanka

456. The Working Group's activities in relation to Sri Lanka are recorded in its previous 10 reports to the Commission. 1/

457. During the period under review, the Working Group transmitted 1,802 newly reported cases of disappearance to the Government of Sri Lanka, of which 62 were reported to have occurred in 1992. Forty-one of those cases were transmitted by cable under the urgent action procedure and five of them were clarified during 1992. The Group also retransmitted to the Government a total of 14 cases containing additional information received from the sources. All the cases transmitted in the course of 1992 were also sent to the Government on diskette, in order to facilitate the computerization of the cases in the Government's system. The files of the Working Group concerning Sri Lanka were revised, and some cases found to be duplicated were subsequently deleted.

458. By letter dated 19 June 1992, the Government was informed that five cases had been clarified, four on the basis of information provided by the source and one on the basis of information provided by it. By letters dated 19 June

and 15 December 1992, the Government was also informed that in eight cases the Group had decided to apply the six-month rule.

459. Given the very high number of cases received, and as decided at its thirty-fifth session, the Group will continue to transmit to the Government, in 1993, groups of cases as they are processed by the Secretariat. In this respect, it is to be noted that some 5,000 cases of disappearance approved by the Working Group at its thirty-sixth, thirty-seventh and thirty-eighth sessions for transmission to the Government of Sri Lanka have still to be processed, the reduced staff assigned to the Working Group having so far been unable to analyse and prepare those cases.

460. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letters dated 19 June and 23 September 1992, the Working Group reminded the Government of all outstanding cases.

461. At the invitation of the Government of Sri Lanka, three members of the Working Group, Mr. Agha Hilaly, Mr. Jonas K.D. Foli and Mr. Toine van Dongen, made a second visit to Sri Lanka on its behalf; the mission took place from 5 to 15 October 1992 and the report of this visit is contained in document E/CN.4/1993/25/Add.1.

462. In accordance with resolution 1992/59, the Working Group sent to the Government of Sri Lanka a "prompt intervention" cable on 20 July 1992, requesting protection against intimidation and threats alleged to have been made against Lawyers for Human Rights and Development, a group which had filed numerous habeas corpus petitions on behalf of disappeared persons and which had been a witness for the Working Group during its visits to Sri Lanka.

Information and views received from relatives of missing persons or from non-governmental organizations

463. The majority of newly reported cases of disappearance transmitted to the Government during 1992 were submitted by Amnesty International, which also provided information on the basis of which four cases have been considered clarified or updated. The majority of the cases of disappearance denounced during the reporting period allegedly occurred in the North-eastern Province. The forces often cited as responsible were the Army, in many instances with the participation of the Tamil Eelam Liberation Organization (TELO) or the Muslim Home Guards. The Special Task Force of the police has also been cited as responsible for some of the disappearances.

464. General allegations on the human rights situation in the country were received from several local and international human rights organizations. A full picture of the phenomenon of disappearance, as well as other human rights violations in Sri Lanka, is contained in the report of the follow-up visit carried out by the Working Group (E/CN.4/1993/25/Add.1).

Information and views received from the Government

465. By notes verbales dated 22 September and 5, 13 and 20 October 1992, the Government provided information on the eight cases of disappearance cited above placed under the six-month rule which were previously transmitted by the Working Group. The Government reported that in these cases the missing persons were detained in prisons or other centres of detention. The Government also stated that these cases had been transmitted to the Presidential Commission of Inquiry for investigation. In another case, the Government informed the Working Group that the missing person had been killed in a shoot-out between the Liberation Tigers of Tamil Eelam (LTTE) and the Special Task Force on 24 June 1992 at Akkaraipattu, Ampara District. By a note verbale dated 20 October 1992, the Permanent Mission of Sri Lanka to the United Nations Office at Geneva informed the Working Group that nine cases transmitted in the past had been forwarded to the Commission of Inquiry for investigation. Finally, in a letter dated 28 October, the Government stated that the Commission of Inquiry would find it useful if the Working Group were to provide the names and addresses of the relatives of the missing persons in order to facilitate clarification.

466. During its thirty-seventh and thirty-eighth sessions, the Working Group met members of the Permanent Mission of Sri Lanka to the United Nations Office at Geneva. At the thirty-seventh session, the Government stated that it would continue to extend its co-operation to the Working Group during its upcoming visit to Sri Lanka, and that it had begun implementing the recommendations made by the Group in its report on the visit to the country in 1991 (E/CN.4/1992/18/Add.1). At the thirty-eighth session, the Government stated that it continued to attach great importance to the reduction of disappearances in Sri Lanka as well as to ending the armed conflict and negotiating a lasting peace among the groups in the country.

Statistical summary

I.	Cases reported to have occurred in 1992	62
II.	Outstanding cases	6,678
III.	Total number of cases transmitted to the Government by the Working Group	6,726
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	23
	(b) Cases clarified by the Government's responses a/	17
V.	Cases clarified by non-governmental sources b/	31

a/ Persons in prison: 6
Persons released from detention: 11

b/ Persons dead: 11
Persons executed: 1
Body located and identified: 1
Persons in prison: 3
Persons released from detention: 12
Persons at liberty: 1.

Syrian Arab Republic

Information reviewed and transmitted to the Government

467. The Working Group's activities in relation to the Syrian Arab Republic are recorded in its previous nine reports to the Commission. 1/

468. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of the two outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after eight years. Subsequently, the Government provided information on the two outstanding cases.

469. By a letter dated 15 December 1992, the Working Group informed the Government that it would appreciate receiving more precise information on the place of imprisonment of a person who had been sentenced by a Syrian court, and also on the exact whereabouts of a person who, according to the Government's information, had been released from prison.

Information and views received from the Government

470. By a note verbale dated 21 September 1992, the Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva informed the Working Group that with regard to one of the two outstanding cases, the person had been arrested and charged with the commission of illegal acts, had been brought to trial and convicted, then subsequently released under the terms of the 1991 presidential amnesty. With regard to the second case, the Government stated that the person had been arrested by criminal investigation officers, charged with criminal conspiracy and the commission of numerous illegal acts, then brought to trial, convicted and sentenced to 10 years' imprisonment.

Statistical summary

II.	Outstanding cases	2
III.	Total number of cases transmitted to the Government by the Working Group	6
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	5
	(b) Cases clarified by the Government's responses a/	3
V.	Cases clarified by non-governmental sources b/	1

a/ Persons in prison: 3

b/ Persons released: 1.

Thailand

Information reviewed and transmitted to the Government

471. During the period under review, the Working Group transmitted two reported cases of disappearance to the Government of Thailand. Both were reported to have occurred in 1992 and were transmitted by cable under the urgent action procedure.

Information and views received from relatives of missing persons or from non-governmental organizations

472. The newly reported cases of disappearance were submmitted by Amnesty International and concerned two persons who had been arrested on suspicion of being illegal immigrants from Myanmar. Relatives were not allowed to see them at the police station but were informed that they would be able to do so in court. The relatives went there, but none of the missing persons appeared. They were later informed by prisoners at the police station that a police officer had taken the two men away from their cells. No explanation concerning their fate was given by the Thai police. Concern was expressed because other persons previously arrested in Ranong by Thai immigration police on suspicion of being illegal immigrants were allegedly also missing and it was believed that their dead bodies had been found some three kilometres from Ranong.

473. It was reported that from 17 to 21 May 1992 the Thai military and police mounted an attack against pro-democracy demonstrators in Bangkok. Thousands of people were allegedly arrested and an unknown number killed by gunfire. The Thai Government reportedly claimed that there were still some 252 missing persons. Non-governmental sources placed the number of missing persons at about 700.

Information and views received from the Government

474. By a letter dated 23 September 1992, the Government reported that none of the authorities of the province of Ranong had arrested any nationals of Myanmar with the names of the two missing persons. The Government further reported that the Ministry of the Interior had instructed the Police Department to make further investigations of these cases.

Statistical summary

I.	Cases reported to have occurred in 1992	2
II.	Outstanding cases	2
III.	Total number of cases transmitted to the Government by the Working Group	2
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	2
	(b) Cases clarified by the Government's responses	0

Turkey

Information reviewed and transmitted to the Government

475. The Working Group's activities in relation to Turkey are recorded in its previous reports to the Commission. 1/

476. During the period under review, the Working Group transmitted to the Government of Turkey a total of 26 newly reported cases of disappearance which occurred in 1992 and were transmitted by cable under the urgent action procedure. The Working Group also retransmitted to the Government a total of seven cases containing more precise information on the place of arrest.

477. By letters dated 25 January and 17 July 1992, the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letters dated 19 June and 22 October 1992, the Working Group reminded the Government of all outstanding cases. By letter dated 15 December 1992 the Working Group advised the Government that on the basis of its replies two cases would be considered clarified provided that the source did not submit relevent observations during a six-month period.

Information and views received from relatives of missing persons or from non-governmental organizations

478. The 26 newly reported cases of disappearance were submitted by the following non-governmental organizations: World Organization Against Torture, Amnesty International and the Comité du Kurdistan (Kurdistan Committee). One case was submitted by the People's Mojahedin Organization of Iran concerning the alleged disappearance of one of its members in Istanbul. This case was also communicated to the Government of the Islamic Republic of Iran, requesting its cooperation for the investigation and clarification of the case.

479. Most of the disappearances concerned persons of Kurdish ethnic origin and reportedly occurred in the Provinces of Diyarbakir and Siirt, in south-east Anatolia, where the security forces were reported to be engaged in an armed conflict with the Kurdish Workers' Party (PKK).

480. Six reported cases concerned persons who had allegedly been taken into police custody and were held unregistered and incommunicado at the Istanbul police headquarters, either at the Anti-Terror Branch or at the Political Branch. The missing persons reportedly included three students and a girl aged 17. In all of those cases, relatives had appealed to the competent authorities and in four cases had filed lawsuits against the Istanbul police headquarters with the Public Prosecutor's Office. According to information received, detainees could be held in police custody without supervision of a court for up to 15 days throughout the country and for up to 30 days in the 10 provinces under emergency legislation. It was also alleged that during that time, detainees were normally held incommunicado. Such long periods of incommunicado detention were likely to facilitate disappearances.

481. The forces often cited to be responsible were the Turkish Army, the police, special teams belonging to the army and the police, and in two cases

paramilitary groups. In the case submitted by the People's Mojahedin Organization of Iran, the victim was reportedly abducted by a Pasdaran unit (agents of the Iranian Government).

Information and views received from the Government

482. In letters dated 16 and 20 December 1991, the Government informed the Working Group that one of the missing persons was neither arrested nor under police custody. However, judicial proceedings had been initiated by the Court of Fatih (Istanbul).

483. In another case, it reported that the Commission on Human Rights of the National Assembly had established a subcommittee to carry out an investigation on the whereabouts and fate of the missing person.

484. In relation to another case, the Government confirmed that the missing person, who was working for the terrorist group PKK, had been arrested on 22 January 1992 and taken to a police post for interrogation; however, no information was provided about the place where the missing person had been taken.

485. By letters dated 11 February 1992, 13 July 1992 and 8 September 1992, the Government declared that the Turkish authorities had not arrested or detained 11 of the missing persons whose cases had previously been transmitted by the Working Group. In seven of the above cases, the Government stated that the alleged place of disappearance was not located in the province cited by the Working Group. The Government reported that, according to the relevant judicial procedures, persons arrested on suspicion of relations with terrorist groups were brought to the Public Prosecutor's Office, which issued a detention order before they were taken to interrogation centres. Furthermore, two medical examinations were made, one before and one after the detention. Thus the Government considered impossible the occurrence of the above-mentioned disappearances. In relation to one of the cases, the Government reported that the missing person had been arrested after having raped a minor and had been freed after he had married the victim. The proceedings of the Court had not yet been finalized.

486. In a letter dated 3 November 1992, the Government forwarded to the Working Group a list of 77 cases of violent acts committed by the terrorist group PKK against civilians between 29 August 1991 and 2 October 1992. Those cases included in particular guerrilla attacks, murder, abduction, and destruction of property. The Government stated that the PKK had assassinated more than 1 thousand civilians and badly wounded an even larger number since 1984.

Statistical summary

I.	Cases reported to have occurred in 1992	26
II.	Outstanding cases	30
III.	Total number of cases transmitted to the Government by the Working Group	30
IV.	Cases on which the Government has provided one or more specific responses	16
V.	Cases clarified by the Government's responses	0

Uganda

Information reviewed and transmitted to the Government

487. The Working Group's activities in relation to Uganda are recorded in its last 10 reports to the Commission. 1/

488. No cases of disappearance were reported to have occurred in 1992. By a letter dated 19 June 1992, the Government was reminded of all outstanding cases. In a letter dated 23 September 1992, the Working Group requested the Government to provide more precise information on the whereabouts of the persons in detention or released as well as the location of the bodies the person reported killed. In addition, the Government was provided with the summaries of all outstanding cases.

Information and views received from the Government

489. By a letter dated 6 August 1992 the Ministry of Foreign Affairs of the Government of Uganda requested the Working Group to provide the Government with updated summaries of the 13 outstanding cases.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	13
III.	Total number of cases transmitted to the Government by the Working Group	20
IV.	Government responses	
	(a) Number of cases on which the Government has provided one or more specific responses	10
	(b) Cases clarified by the Government's responses a/	2
V.	Cases clarified by non-governmental sources b/	5

a/ Persons at liberty: 1
Persons in prison: 1

b/ Persons released: 1
Persons living abroad: 1
Persons in prison: 1.

Uruguay

Information reviewed and transmitted to the Government

490. The Working Group's activities in relation to Uruguay are recorded in its 10 previous reports to the Commission. 1/

491. No case of disappearance was reported to have occurred in 1992. However, by letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, the Chairman of the Working Group explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become absolutely essential and urgent in order to clarify the cases for which no information had ever been received, after seven years.

492. At the time of the adoption of the present report, no reply to this last letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Information and views received from relatives of missing persons or from non-governmental organizations

493. The International Commission of Jurists reported that the Inter-American Commission on Human Rights, in its decision relating to a petition filed by the relatives of persons who had disappeared in Uruguay against Law 15.848 (which terminated the State's power to prosecute and punish military and police personnel responsible for human rights violations committed during the de facto military rule from June 1973 to March 1985), stated that "all society has the right to know the truth, and the circumstances of the crime. Accordingly, each State must provide the necessary means for the investigation and trial. The Commission thus found that the law violates the rights of victims to judicial guarantees". The Commission concluded that "the impunity law (Ley 15.848) violates article XVIII (the right to justice) of the American Declaration and articles 1, 8 and 25 of the American Convention. Accordingly, the Commission recommended that the Government of Uruguay grant the petitioning victims and/or their relatives just compensation for the violations suffered.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	31
III.	Total number of cases transmitted to the Government by the Working Group	39
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	17
	(b) Cases clarified by the Government's responses a/	7
V.	Cases clarified by non-governmental sources b/	1

a/ Persons released from detention: 2
Persons in prison: 4
Child found: 1

b/ Child found: 1.

Venezuela

Information reviewed and transmitted to the Government

494. The Working Group's activities in relation to Venezuela are recorded in its previous two reports to the Commission. 1/

495. During the period under review, the Working Group transmitted to the Government of Venezuela four newly reported cases of disappearance which reportedly occurred in December 1991. Three of those cases were transmitted by cable under the urgent action procedure. By a letter dated 19 June 1992, the Government was notified that one case was considered clarified based on its replies, and by letter dated 17 July 1992 the Government was reminded of reports of disappearance transmitted during the previous six months under the urgent action procedure. By letter dated 19 June 1992, the Working Group reminded the Government of all outstanding cases.

Information and views received from relatives of missing persons or from non-governmental organizations

496. The newly reported cases of disappearance were submitted by the Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM) and concerned three student leaders who had reportedly been intercepted by security forces during a commercial fishing expedition; one case concerned an individual who had reportedly had a personal quarrel with a police officer and had subsequently disappeared.

Information and views received from the Government

497. By a letter dated 21 October 1992, the Government of Venezuela informed the Working Group that in one case a search had been undertaken by the authorities who had found the vehicle of the person concerned but were not yet able to locate the victim; the police had issued a call at the national level in order to try to find the missing person.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	4
III.	Total number of cases transmitted to the Government by the Working Group	7
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	3
	(b) Cases clarified by the Government's responses a/	3

a/ Persons dead: 3.

Viet Nam

Information reviewed and transmitted to the Government

498. The Working Group's activities in relation to Viet Nam are recorded in its last six reports to the Commission. 1/

499. No case of disappearance was reported to have occurred in 1992. By letter of 19 June 1992, the Working Group reminded the Government of the one outstanding case of disappearance transmitted in 1991. In connection with the reply dated 9 September 1992 received from the Government of Viet Nam, in which it was indicated that the missing person had been sentenced to 20 years' imprisonment by a tribunal, the Working Group decided to request further information from the Government concerning the place where the person was imprisoned.

Information and views received from the Government

500. The Government of Viet Nam addressed a reply dated 9 September 1992 to the Working Group in relation to the one outstanding case, indicating that the missing person, "... who had violated the law of Viet Nam (art. 73, para. 1 of Viet Nam's Penal Code) was tried in public on 29 November 1991. The People's Court of Ho Chi Minh city sentenced him to 20 years' imprisonment for his activities aimed at overthrowing the Government".

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	1
III.	Total number of cases transmitted to the Government by the Working Group	8
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	4
	(b) Cases clarified by the Government's responses a/	3
V.	Cases clarified by non-governmental sources b/	4

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a/ Persons in prison: 2
Persons released: 1

b/ Persons released: 4.

Zaire

Information reviewed and transmitted to the Government

501. The Working Group's activities in relation to Zaire are recorded in its second to fourth and sixth to twelfth reports to the Commission. 1/

502. No case of disappearance was reported to have occurred in 1992. By letter dated 19 June 1992, the Working Group reminded the Government of Zaire of the 12 outstanding cases transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, it explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become essential and urgent in order to clarify the cases for which no information had ever been received, after six years.

503. At the time of the adoption of the present report, no reply to this last letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the missing persons.

Statistical summary

I.	Cases reported to have occurred in 1992	0
II.	Outstanding cases	12
III.	Total number of cases transmitted to the Government by the Working Group	18
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	17
	(b) Cases clarified by the Government's responses a/	6

a/ Persons at liberty: 6.

Zimbabwe

Information reviewed and transmitted to the Government

504. The Working Group's activities in relation to Zimbabwe are recorded in its five previous reports to the Commission. 1/

505. No cases of disappearance was reported to have occurred in 1992. By a letter dated 19 June 1992, the Working Group reminded the Government of Mozambique of the one case transmitted in the past. Since no response whatsoever was forthcoming, the Working Group decided, at its thirty-seventh session, to address once more a particular reminder to the Government. In a letter dated 4 September 1992, it explained that for the Group to complete the work entrusted to it by the Commission on Human Rights, the cooperation of the Government had become essential and urgent in order to clarify the above outstanding case, for which no information had ever been received, after two years.

506. At the time of the adoption of the present report, no reply to the Working Group's letter had been received. The Group is, therefore, still unable to report on the fate or whereabouts of the mission person.

Statistical summary

I.	Cases reported to have occurred in 1991	0
II.	Outstanding case	1
III.	Total number of cases transmitted to the Government by the Working Group	1
IV.	Government responses:	
	(a) Number of cases on which the Government has provided one or more specific responses	1
	(b) Cases clarified by the Government's responses	0

III. CONCLUSION AND RECOMMENDATIONS

507. Typically, enforced disappearances occur where social and political tension is rampant. This is even more true when tension turns into armed confrontation. Generally, in such conditions the enjoyment of human rights is jeopardized, the viability of democratic institutions weakened and respect for the rule of law undermined. More to the point: the prevention and investigation of enforced disappearances is made more difficult. Mechanisms designed to provide protection to individual citizens in times of peace readily become futile in the context of war, precisely when protection is most imperative.

508. Even in times of war, there are norms no conduct may fall below. International humanitarian and human rights law spells them out in unmistakable terms. Notably article 3 common to the Geneva Conventions of 1949, article 75 of Additional Protocol I thereto and article 4 of the International Covenant on Civil and Political Rights, read together, leave little latitude. Yet, no matter how tight the rules, recent events have testified to the defencelessness of citizens in countries rife with violence. In fact, the extent to which human rights are effectively protected during an armed conflict is to be viewed as a measure of a Government's true commitment to them. Therefore, as long as such a conflict rages, more robust mechanisms must be put into place at the national level for deterrence, protection and inquiry as regards human rights violations. Emergency legislation, evidently a corollary to civil strife should be geared strictly to the exigencies of the situation, and safeguards against abuse of power should be built into it from the very beginning.

509. The international community, for its part, must also take action in this matter. Concretely, the United Nations should look for more powerful ways of guaranteeing the observance of basic rights in armed conflict situations. Human lives are at stake and so is the cause of human rights as such. Perhaps more important in the long run, the credibility of the United Nations as a monitor of basic rights implementation in general hangs in the balance. Not only the victims themselves, particularly the non-combatants caught in the middle, but the public at large look to the world Organization for convincing action - action that makes a difference.

510. Needless to say, peace provides an environment in which human rights may thrive. Negotiations, then, aimed at re-establishing peace must be further promoted by the international community. An important element in such negotiations, from the outset, should be the establishment of adequate guarantees for human rights enjoyment by the Governments concerned. The prevention of diasppearances and - of paramount importance - the clarification of disappearances that have occurred in the course of the conflict should be among the elements. In particular, the tracing of missing persons is not a burden that should be left routinely to the International Committee of the Red Cross on account of its vast experience in the matter. The primary responsibility for ascertaining the fate and whereabouts of the disappeared lies squarely with the Government concerned. By its very nature United Nations action to that effect is auxiliary.

511. The situation in the former Yugoslavia stands out as an armed conflict of dramatic proportions, having produced thousands of refugees and displaced persons, as well as people detained, tortured, killed and disappeared. Clearly, the international community could not stand idly by in the face of so much human misery and so grave a threat to the peace. Eventually, it will have to become involved in all aspects of the situation, including the question of disappeared people. On this issue, too, it needs to take action that transcends symbolic values alone and merits credibility on the basis of effectiveness. In view of the overwhelming dimensions, the Working Group is urgently seeking the guidance of the Commission on Human Rights, its parent body, on how to approach the matter of the disappeared in the former Yugoslavia. (See also paras. 36-44 above).

512. In 1992 some 8,000 cases of disappearance were transmitted to 59 Governments, while 353 cases were reported to have taken place in the same year, worldwide. Eleven new countries are now on the Working Group's files and many more cases have been received from an increasing number of sources. The dramatic increase in the number of cases submitted to the Working Group reveals more awareness throughout the world of the existence of the Working Group and its mandate, and an increased confidence on the part of relatives of missing persons and non-governmental organizations in the action of human rights mechanisms. More clearly than ever, the problem of enforced disappearances is a global concern. Thousands of cases all over the world have not yet been clarified and many cases continue to occur.

513. The cooperation extended to the Working Group by the majority of Governments continues to improve. Most of them have responded promptly to the inquiries of the Working Group regarding specific cases or general matters related to disappearances. However, there are 10 Governments that have never provided replies to the Working Group regarding specific cases of disappearance: Afghanistan, Angola, Burkina Faso, Guinea, Lebanon, Mauritania, Mozambique, Nepal, Seychelles and Zimbabwe. The continued absence of replies from these Governments should be a matter for serious concern to the Commission.

514. Enforced disappearances could be significantly reduced with an independent and efficient administration of justice. One of the things it could achieve is to help relatives of missing persons draw the maximum benefit from the habeas corpus procedure, which is still, in relative terms, the most powerful legal remedy to help uncover the fate and whereabouts of a disappeared person. It is essential that legislation and practice provide for an expeditious and easily accessible habeas corpus.

515. On the matter of clarification, some countries have decided to disclose records of security services containing information on the fate of missing persons. In several countries, relatives have repeatedly requested to be allowed access to the military and police archives and insisted that such documentation be put at the disposal of the public. The Working Group is of the opinion that such disclosure would not only serve the purpose of clarification but would also have an impact on preventing new cases of disappearance from arising as well as on putting an end to the vicious circle of impunity. In its tentative considerations on the question of impunity, the

Working Group has stated that the investigation of disappearances and the publication of the results of the investigation are perhaps the most important means of establishing accountability for the Government as such.

516. On the question of impunity, the Working Group was encouraged by the numerous contributions it received concerning its tentative considerations on the question of impunity. Governments and non-governmental organizations have replied readily and have provided important insights into the matter. The Working Gorup will continue to examine the question of impunity next year within the context of its mandate to study the phenomenon of disappearance and how to eliminate this hideous practice.

517. Exhumation and identification of possible victims of human rights violations have proved to be significant in the investigation of cases of disappearances. In compliance with Commission resolution 1992/24, the Working Group has given special attention to the role of teams of forensic experts in this matter. The Working Group will continue to devote its thinking to the topic and expects to receive comments from the Commission on the preliminary scheme which is included in the present report (see paras. 50-55 above). Consultations will continue during 1993.

518. In a number of countries, exhumation and identification of corpses is being carried out by local authorities. In some, the authorities cooperate closely with international forensic teams, an example to be emulated elsewhere. In a few instances, however, forensic teams, whether local or international, have been subjected to reprisals and acts of intimidation. The Working Group expresses its deep concern about this. Any such act is reprehensible as a matter of principle, but in addition the effectiveness of the exercise may be frustrated as a result.

519. The Working Group deeply regrets that behaviour effecting the basic rights of relatives of victims and human rights organizations persists. Particularly, the action of Governments in actually preventing witnesses from having access to representatives of United Nations human rights bodies in the course of country visits constitutes conduct that adds insult to injury. The Commission on Human Rights has duly paid attention to this over the last several years. While again inviting non-governmental organizations to devote more attention to the prompt intervention procedure, the Group urges the Governments concerned to adopt special measures to protect individuals and groups involved in the investigation of cases of disappearances and to investigate promptly and thoroughly any act which could affect or have affected them.

520. Since 1984, the Working Group has insisted that an international instrument be drawn up on enforced or involuntary disappearances. The Group is gratified to note that, at is forty-eighth regular session, the Commission, in its resolution 1992/29, approved the text of a draft Declaration on the Protection of All Persons from Enforced Disappearance (see annex II below). By incorporating the standards of the Declaration, domestic legisation should consider all acts oriented towards carrying out or tolerating an enforced disappearance as serious offences under criminal law, punishable with appropriate penalties by the ordinary courts. The Commission might request the Working Group to integrate the Declaration in its methods of work and to

devote a separate chapter in its future reports to the Commission to obstacles encountered in the implementation of the Declaration worldwide. Also, the Commission may wish to change the name of the Working Group in conformity with the title of the Declaration.

521. During 1992, the Working Group transmitted a number of cases of disappearances twice as high as the number for 1991 and at least four times the number of cases transmitted in previous years. This was possible thanks to an exceptional effort made by all members of the secretariat servicing the Group and also thanks to the improved utilization of computerized data bank facilities. Also, some non-governmental organizations are now submitting their case material in computerized form, thus expediting the processing. Nevertheless, some 8,000 cases still await consideration at the secretariat level.

522. The increasing flow of communications has considerably enlarged the workload of the staff. But there are other factors which have had the same effect. In the course of the years, the Commission has added new elements to the terms of reference of the Working Group, such as those concerning civil defence units, armed groups, reprisals and forensic sciences. Also, at its own initiative, the Group has expanded its methods of work and explored new avenues of the phenomenon of disappearances, such as the aspect of impunity. The problem is compounded further by the overall malaise in the resources situation of the Centre for Human Rights. Nowadays, the staff servicing the group is not only less than half the size it was in 1980, when the Group started, but it also deals with a task which has grown exponentially over the past 12 years. Worse, all the staff now servicing the Group are being called upon to service other mechanisms as well, including some thematic or country rapporteurs.

523. At present, the Working Group understands that the members of its staff have reached a point where they can no longer cope with the workload. This means that, unless additional personnel is assigned to the Working Group, an ever-increasing proportion of the cases received by the Group will not be analysed, processed and transmitted. The older the backlog, the less likelihood there is that the fate and whereabouts of the disappeared will ever come to light. The dialogue with Governments and non-governmental organizations will be seriously hampered and the Group's main humanitarian function seriously jeopardized. The Group's credibility is bound to dwindle and its activities, as a result, will tend to become marginalized. Unless decisive action is taken - the Group had occasion briefly to discuss this matter with the Under-Secretary-General for Human Rights - the achievements of the Group since 1980 may be dissipated irretrievably. On this matter, too, the Working Group looks to the Commission, its parent body, as well as to its members individually, to take action commensurate with the problems described.

IV. ADOPTION OF THE REPORT

524. At the last meeting of its thirty-eighth session, on 4 December 1992, the present report was adopted by the members of the Working Group on Enforced or Involuntary Disappearances.

Ivan Tosevski Chairman/Rapporteur	(Yugoslavia)
Agha Hilaly	(Pakistan)
Jonas K.D. Foli	(Ghana)
Toine van Dongen	(Netherlands)
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Annex I

SUMMARY OF THE REPLIES RECEIVED FROM GOVERNMENTS AND NON-GOVERNMENTAL ORGANIZATIONS ON THE "TENTATIVE CONSIDERATIONS" OF THE WORKING GROUP ON THE QUESTION OF IMPUNITY

I. REPLIES RECEIVED FROM GOVERNMENTS

1. The following Governments replied to the Working Group's letters on the question of impunity: Argentina, Austria, Bahrain, Belarus, Bolivia, Brunei Darussalam, Burkina Faso, Chile, China, Colombia, Cuba, Cyprus, Ecuador, Egypt, Iran (Islamic Republic of), Iraq, Malaysia, Mexico, Morocco, Myanmar, Namibia, Pakistan, Panama, Philippines, Qatar, Singapore, Tunisia, Uruguay, Western Samoa, Yugoslavia. Since the contribution by the Government of Uruguay was received at the close of the Working Group's last annual session, it is not reflected in the present summary.

2. Many of the replies received from Governments do not cover all the tentative considerations. Several Governments preferred to describe at length their own legislation as it stands at the moment: some of those Governments, for example Argentina, did not provide comments on the Working Group's tentative considerations; others included comments on some of them. A few made statements of a general nature, which did not provide comments on the issues brought to their attention but mainly discussed international competence to deal with those issues. Among those Governments, China stated that as a consequence of its historical, cultural and social circumstances, there were many provisions in Chinese legislation, which were difficult to reconcile with those of other States regarding the investigation and trial of cases of disappearances.

3. A number of Governments expressed total support for the Working Group's tentative considerations; these included Bahrain, Cyprus, Ecuador, Iran (Islamic Republic of), Pakistan, Paraguay and the Philippines. Some Governments generally supported the tentative considerations while pointing to objections on certain particular issues. Among these were Austria, Chile, Colombia, Iraq and Yugoslavia.

A. Domestic legislation on enforced disappearance as a criminal offence

4. In relation to domestic legislation, all the Governments providing replies to the Working Group indicated that no specific provisions in their criminal law dealt with disappearances, in some cases because disappearances had never occurred and the need for legislation had never arisen. Most of those Governments described provisions against illegal arrest, confinement or detention; abduction, ill-treatment or torture and murder, which they stated were strong enough to cover situations in which disappearances might occur.

5. Colombia stated that its Constitution explicitly prohibited enforced or involuntary disappearance.

6. Belarus stated that its existing legal norms made it possible to characterize a criminal action when those responsible were identified; consequently it was not necessary to establish enforced or involuntary disappearance as a crime.

B. Habeas corpus as a tool to prevent disappearances and discover the whereabouts of a disappeared person

7. In relation to habeas corpus, several Governments stated that they had in th eir legislation a fully-fledged habeas corpus procedure. Some Governments stated that there was no safeguard such as habeas corpus in their legislation (often because habeas corpus is considered to be a specific legal tool of Anglo-American legislation which cannot be incorporated into continental legal systems), but that it was replaced by constitutional guarantees for the protection of human rights. Other Governments stated that they had a habeas corpus procedure either explicitly included and regulated or implicit in their legal system, which was based on common law.

8. A number of Governments expressed their support for this tentative consideration. Ecuador, in particular, stated that habeas corpus must guarantee the rapid release of a person if his detention was arbitrary. It added that the competent authority should be empowered to conduct unrestricted investigations with free access to the places where the person was supposed to be held in detention and that penalties should be laid down for any official who disobeyed the order concerning the immediate presentation of the detainee.

9. Some of the replies received by the Working Group contain descriptions of national legislation, including the extent to which habeas corpus is applicable and the facilities given to the judicial authorities for the investigation of the whereabouts of a missing person.

10. Malaysia indicated that, in its legislation, habeas corpus dealt only with illegal or improper detention but did not extend to persons who had disappeared.

C. A proper functioning of the administration of justice as an important element to ensure accountability for disappearances

11. Several Governments described the functioning of their judicial systems and recent reforms of their penal procedures that would ensure that government officials committing abuses were identified and punished. Tunisia, in particular, indicated that its Civil Code provided that civil liability applied to the State for any act or error committed by its representatives, agents and staff members in carrying out the tasks assigned to them. Panama stressed the importance of a proper functioning of the judiciary and the need to provide it with sufficient resources to expedite penal investigations which resulted in the punishment of those found responsible.

D. Steps to be taken to ensure that all persons involved in the investigation of disappearances are protected against ill-treatment, intimidation or reprisals

12. Some countries, in particular Pakistan, stressed the fact that their law protected the investigators and prosecutors pursuing cases of persons illegally confined or who had disappeared.

13. In this connection, the Philippines stated that the citizenry should be motivated to be vigilant in asserting their rights, and that an uncaring attitude should be discouraged or totally eliminated. Laws should be passed protecting witnesses; feelings of insecurity turn away prospective witnesses of human rights violations or deter them from getting involved in cases of this nature.

E. The obligation to investigate and punish the crime of disappearance

14. All the Governments agreed that unlawful arrest and deprivation of liberty, ill-treatment and torture, disappearance or any offence involving serious violations of human rights should be investigated, prosecuted and punished. In this connection, Burkina Faso stated that impunity was closely related to the principle of equality before the law, which should not be infringed by any legal provision. China and Malaysia stressed that the investigation should take place according to the legal procedure established domestically by the State concerned and that there should be respect for the ability of the State to dictate its own course of action, as long as it was faithful to its international obligations.

F. The statutory limitations

15. The Working Group's considerations on statutory limitations were supported by Egypt as well as by those Governments which agreed with all the "tentative considerations". Others, such as Mexico and Belarus, stated that statutory limitations were part of their criminal law in order to protect the citizen's security before the law; Rwanda indicated that proceedings against the perpetrator of an offence might be counterproductive for a society that had forgotten the effects of innumerable offences committed in the past that had gone unpunished. Austria stated that total exclusion of statutory limitations was not acceptable, but the suspension of the "limitation of time" through the period during which it was impossible or difficult to investigate or prosecute those offences due to absence of the rule of law or lack of an independent judiciary was acceptable instead. Yugoslavia suggested that the principle of non-applicability of statutory limitations should be replaced by a longer period of limitation for the criminal action. Chile suggested that it was necessary to stress that disappearances were a "continuing" offence, that is an offence for which the period of limitation began only with the completion of the criminal offence, i.e. when the victim was released or found.

G. Publication of the results of investigations as a means of establishing accountability

16. Most of the Governments providing replies to the Working Group's tentative considerations explicitly agreed with the consideration referring to the publication of the results of inquiries into cases of disappearance and the names of perpetrators as the only means of bringing charges against the perpetrators and establishing their degree of responsibility. Austria was the only one to disagree, on the ground that it could affect surviving victims and convicted offenders who were only minor accomplices in disappearances or other related crimes. Mexico stated that the governmental National Human Rights Commission was currently publishing the results of its investigations and its recommendations on all cases of human rights violations submitted to it, but stressed that the State had no obligation to publish the results of its investigations.

17. The Philippines expressed the view that publication of the reports of the investigation might not always be advisable, especially when publication could compromise the investigation, unless responsibility had been clearly established by law.

18. Malaysia stated that sometimes the perpetrators of enforced disappearances were agencies or officials of a Government; the identity of the perpetrators was irrelevant for determining guilt and punishment and ultimately the duty to investigate, prosecute and punish lay with the State itself.

H. Amnesty laws and other legislation affording the perpetrators of disappearances immunity from accountability

19. In addition to the Governments that agreed entirely or in general with the Working Group's tentative considerations, the following Governments supported the view that no laws or decrees should be enacted or maintained which, in effect, afforded the perpetrators of disappearances immunity from accountability: Burkina Faso, Malta, Morocco, Rwanda and Western Samoa. Objections to this consideration were expressed by Belarus, which stated that according to its legislation persons could be exempted from punishment by amnesty; Malaysia, which stated that this question was a matter of policy; and Mexico, which stated that certain persons (such as relatives and others with close ties to the offender) should be excluded from accountability.

I. The prosecution and punishment of offences involving gross violations of human rights such as disappearances, including those committed by military personnel, should be dealt with in the civilian courts

20. In addition to Governments that generally agreed with the Working Group's tentative considerations, other Governments supported the principle that offences involving human rights violations should be dealt with by civilian courts because they were offences of an eminently civil nature and it would not be advisable to entrust their judgement to military courts, which could easily concoct a military trial and acquit the defendant. Among these Governments, Burkina Faso drew attention to the fact that, for fear of

reprisals, civil judges could also be responsible for irregularities and stressed the need to establish a solid independence of the judiciary, particularly during states of emergency. Iraq, Mexico and Morocco also supported this consideration based on their own legislation; Mexico further indicated that its Constitution established that military jurisdiction would be recognized for the trial of offences against or breaches of military discipline and that no account should be taken of the status of the individual committing the offence. Colombia generally agreed with that consideration but indicated that its Constitution established an exception for offences committed by members of the police and armed forces on active service in connection with their duties; cases involving offences which were clearly not connected with military duty or service were referred to the ordinary courts. Rwanda disagreed with this consideration, while Belarus, Bolivia and Malaysia stated that, according to their domestic legislation, any crime committed by members of the armed forces in their line of duty, including serious human rights violations, were dealt with by military tribunals.

J. Obeying orders as a defence in the process of determining criminal responsibility for dissapearances

21. This consideration has been supported by Bolivia, Morocco and Rwanda, in addition to countries who expressed their agreement with all the tentative considerations. Morocco expressed the view that the courts should have discretion, within the framework of the law, in handling cases of obeying orders. Pakistan stated that its courts had upheld the view that refusal to comply with an illegal order was not an offence.

22. In disagreement with this consideration were Colombia, Iraq, Malaysia and Mexico on the ground that in their domestic legislation it constituted an exonerating factor; responsibility in those cases resided only with the superior issuing the orders. In the case of Mexico, the exemption existed in its Penal Code, unless the fact that the order itself constituted an offence was known to the executor.

23. Belarus stated that "circumstances mitigating guilt" were not contained in its legislation, since those circumstances would entail changing the characterization of the person's action; they were not regarded as mitigating the person's guilt.

K. Other specific suggestions

24. Cyprus proposed that a report be published setting out any negative attitude exhibited by any Member State in respect of investigations into enforced or involuntary disappearances.

25. The Philippines proposed that a programme should be undertaken by the United Nations to ensure the commitment of Governments to disseminating information among its citizens in order to create awareness about the rights granted and safeguards available to them in their domestic legislation. Regular seminars and other means of effective instruction should be regularly conducted among the military and police authorities to instil knowledge and understanding of the legislation.

26. Chile stated that the tentative considerations of the Working Group addressed mainly the question of legal impunity, but that there was also political and moral impunity. Political impunity consisted of legitimizing the acts of public servants involved in violations of human rights by providing them with publicity or legal defence and promoting them to higher posts in the public function, congratulating and decorating them because of their "success" in combating crime. Moral impunity consisted of justifying State agents who committed criminal acts on the ground that they were heroes who served the motherland and campaigned against subversion. So it was very important for States' policies to discourge actions that might lead to enforced or involuntary disappearances and to impunity for them.

II. VIEWS OF NON-GOVERNMENTAL ORGANIZATIONS

27. Allegations received from NGOs generally support the considerations listed in the Working Group's letter and provide the grounds for such support. Furthermore, they indicate a number of new elements related to the question of impunity. This summary identifies the most important considerations contained in the NGOs' contributions, excluding those parts of their reports which refer to national situations.

28. All NGOs coincide in the belief that the adequate investigation of human rights abuses is essential if the full truth is to emerge. Victims, their relatives and the society at large all have a vital interest in knowing the truth about past abuses and in the clarification of unresolved human rights crimes. Similarly, bringing the perpetrators to justice is not only important in respect of the individual case, but also sends a clear message that violations of human rights will not be tolerated and that those who commit such acts will be held fully accountable. When investigations are not pursued and the perpetrators are not held to account, a self-perpetuating cycle of violence is set in motion, resulting in continuing violations of human rights cloaked by impunity.

Responsibility of the State

29. The responsibilty of the State for enforced or involuntary disappearances is stressed by all the NGOs. Amnesty International indicates that, as regards the issue of impunity for human rights violations committed by former Governments, the successor Government has an obligation to accept responsibility for former violations and also to take steps to prevent any continuing violations. The Committee for the Defence of Human Rights in Honduras (CODEH) and Christian Legal Aid Archbishop Oscar A. Romero (SJCAOAR) stressed that the State must bear joint responsibility when its agents are guilty of illegal conduct. The International League for Human Rights (ILHR) believes that duty of states under international law to establish legal accountability for disappearances and to account for the fate of the disappeared persists, as long as the victim's fate remains unresolved. In particular, parties to such international conventions as the International Covenant on Civil and Political Rights should be held in breach of the Covenant for their ongoing failure to account for the fate of someone who has disappeared even if disappearances began before the Covenant entered into force with respect to the State Party concerned.

Governments often lack the political will to punish violations of human rights

30. Amnesty International (AI), the International Commission of Jurists (ICJ) and SJCAOAR and the Commission on Human Rights of El Salvador (CDHEL) express the view that eliminating disappearances and solving the problems connected to their repercussions requires a process burdened with political elements, which are often used precisely to perpetuate impunity. Most often Governments lack the political will to punish the perpetrators of human rights violations. In countries moving from totalitarian-style regimes to fully-fledged democracy, the political will of those involved in the transfer of power may not be entirely wholehearted in fighting impunity for the sake of justice. All too often Governments fail to carry out or do not follow through independent and impartial investigations into violations of human rights. This is especially evident in countries where those responsible for violations are paramilitary groups or so-called "death squads".

31. A first, major step on the part of States' leaders in expressing genuine and sincere political will is the acknowledgement that enforced or involuntary disappearances have existed as a State practise, as a means of social and political control in a given country, and that the perpetrators, instigators and accessories have escaped justice.

Hegemonic militarism in countries with elected civilian Governments

32. Amnesty International (AI), the International Commission of Jurists (ICJ), the ILHR, the Committee for the Defence of Human Rights in Honduras (CODEH), the Coalition Against Impunity (CAI), the Commission on Human Rights in El Salvador (CDHES), the Association of French Families of Political Prisoners in Guinea, and the Peace and Justice Service in Latin America (SERPAJ-AL) expressed the following views:

33. The system which facilitates and tolerates enforced or involuntary disappearances and other serious violations of human rights is based on the predominance of the military over the civilian authorities. In many countries, the military/security forces remain a "State within a State", beyond the reach of the law, out of the hands of civilian control. Disappearances are increasingly prevalent in countries with elected civilian Governments where a wide range of legal remedies are theoretically available.

34. The power of the military can be seen clearly at the institutional level, where the armed forces act autonomously and, overstepping their legal powers, reserve for the military such areas as decisions on security policy, decisions on how the armed forces' budget should be spent, and the stance adopted with regard to human rights.

35. Despite Governments' frequently expressed commitment to human rights, there is often a divergence between foreign policy and military practice. In countries where grave violations of human rights are commonplace, military and police personnel have frequently obstructed the course of justice. Members of the armed forces often do not acknowledge that prisoners are held in military custody and fail to comply with judicial orders. Military authorities frequently withhold evidence and military records and restrict access to

military personnel; transfer the alleged offenders to a different part of the country and accuse the complainant of illegal activities (for example, insurgency). In many countries, army and police personnel are shielded from prosecution by military authorities who transfer or even protect army and police personnel sought by civilian courts. A significant obstacle to successfully prosecuting human rights abuses continues to be the use of military courts to try alleged human rights offenders. Military courts typically lack the impartiality necessary to assure a fair investigation and prosecution.

36. States' duty to seek criminal punishment for disappearances is not discharged if criminal proceedings are undertaken in bad faith or by partial institutions.

Inefficiency of the judiciary

37. Amnesty International, ICJ, CODEH, SJCAOAR and CDHES indicate that as a result of the clandestine nature of disappearances, legal mechanisms intended to protect the individual have rarely proved to be effective agaionst a practice specifically designed to flout the rule of law and to ensure the impunity of the perpetrators. In many countries, courts and investigatory agencies lack the power and resources to investigate human rights abuses.

38. Overcoming impunity therefore requires significant changes in the judiciary to give it greater strength and effectiveness. This reorganization must ensure its independence and impartiality vis-à-vis any other State agency, such as the executive branch. Further, it entails training for all those involved in the administration of justice, the use of modern technology in investigative methods, the allocation of sufficient financial resources and other similar measures.

39. The importance of an investigation shedding light on disappearances and other human rights violations is highlighted when one considers that the aim of a policy of disappearances is to conceal and destroy evidence. In the face of this, the call for justice has but one alternative - an impartial investigation which ought to be conducted by persons known for their integrity, who are not linked to the Government or the governing party, and who have the necessary authority to secure access to documents and files of the armed forces and to investigate any of its own members. Otherwise, impunity will continue, since the legal system has shown itself to be rather unsuitable and ineffective for the punishment of those who commit serious human rights violations.

National safeguards (habeas corpus)

40. Amnesty International, ICJ, CODEH, the Centre of Studies and Action for Peace (CEAPAZ) and Kiluseng Mayo Uno (KMU), stress the importance of national legal recourses aimed at safeguarding freedom and safety. The judiciary has often failed in its responsibility to protect citizens. A weak judiciary, difficulties in the administration of justice, technical problems, and the lack of cooperation from government officials all contribute to a general feeling of total lack of protection which can exacerbate violence.

41. In some countries, the investigations in connection with habeas corpus procedures are carried out by the police or other intelligence agencies which are under the orders of the military authorities or are closely linked to them in the "national security" structure. As a consequence they will not pursue their investigations when military or police personnel are involved. Victims and their relatives or witnesses do not feel they are protected against reprisals if they report a case of disappearance. Furthermore, the judicial authorities are often reluctant to deal with cases of grave violations of human rights, especially when military personnel are involved.

Punishment of serious human rights violations: amnesties, pardons and "due obedience" legislation

42. All the NGOs have expressed support for the consideration in the Working Group's letter that no laws or decrees should be enacted or maintained which, in effect, immunize the perpetrators of disappearances from accountability.

43. Amnesty International, ILHR, ICJ; the American Association of Jurists (AAJ), CODEH, SERPAJ-AL, CDHES, CEAPAZ and SJCAOAR included in their contributions the following additional observations:

44. Amnesty laws which have the effect of preventing prosecutions or terminating pending investigations and trials are another factor contributing to impunity. In some cases, government authorities responsible for human rights violations have been able to pre-empt investigation by means of a self-proclaimed amnesty preceding the transfer of power. When successor Governments uphold these measures or themselves decree such an amnesty, they perpetuate the phenomenon of impunity. Such measures are often justified by invoking the need for national reconciliation and the preservation of security. Yet, in some cases it is evident that such measures have been implemented more as a result of pressure from those previously in power who retain a great deal of influence in the transition period.

45. Laws promulgated on the pretext of "pardon, oblivion and reconciliation" as "clean slate" laws cannot promote national reconciliation when their ultimate objective is to safeguard the interests of those guilty of torture, murder and disappearances. There can be no pardon without knowing why, who, or what is to be pardoned. Amnesty or pardon, granted by the legislation or executive powers, violate the principle of independence of the judiciary and in fact constitute a political means, extensively used by dictatorships as well as by constitutional Governments, which serve no purpose other than to arrange impunity for the perpetrators of serious human rights violations.

46. Amnesty laws, official pardons or uncovered pardons such as "due obedience" laws granted to those responsible for disappearances may violate States' international obligations such as that to prosecute and punish those responsible for torture (Convention against Torture); to ensure that victims receive an effective remedy "notwithstanding that the violation has been committed by persons acting in an official capacity" (International Covenant on Civil and Political Rights) and a generally recognized principle that particularly serious and heinous crimes cannot be exempted from punishment even if political or security reasons are alleged. Furthermore, when disappearances are committed on a massive scale, on political, racial or

religious grounds, they constitute a crime against humanity, as interpreted by tribunals that prosecuted Nazi war criminals. Although States may discharge their duty to prevent some human rights violations through means other than use of criminal sanctions, including administrative disciplinary proceedings, the duty to ensure a narrow class of rights protecting citizens from serious physical harm can be discharged only through the use of criminal sanctions, since effective deterrence is indispensable.

47. At certain periods in history, it may be politically necessary to grant amnesties in order to heal society's wounds. However, these measures must not be arbitrary; they must have specific limits set by the State's international obligations on human rights. An amnesty must not serve as a means of evading State responsibility to investigate and punish violations of basic rights. Before an amnesty can be granted, the case must be investigated and ruled on by a court; individual penalties must be established even though they may not eventually be applied in full.

48. Public knowledge and suspended sentences may provide a strong dose of moral sanction against the guilty which will ensure that they are kept apart from the governmental structures from which they committed criminal acts. It is essential that, even when amnesty or pardon is granted, punishment should involve dismissal from the post in those State institutions from which disappearances or other serious human rights violations were committed. Military or civilian personnel involved in crimes against the most basic rights and freedoms should be excluded from diplomatic or any other form of representation of their country before international institutions or other forums.

49. Criminals must be judged on the basis of their individual responsibility. The instigators should be given heavier punishment. Due obedience can in no way be regarded as a factor attenuating responsibility, except in cases where there was coercion. In particular, members of death squads or other corps who volunteer to carry out heinous crimes should be excluded from any consideration of "attenuating factors" such as "due obedience".

50. Amnesty International states that it takes no position regarding the granting of post-conviction pardons once the truth is known and the judicial process has been completed.

The question of statutory limitations

51. Americas Watch, AAJ, ILHR, SJCAOAR and the Oecumenical Movement for Human Rights (MEDH) refer to the question of statutory limitations. They believe that the non-applicability of statutory limitations is essential, and this should be taken into account in connection with disappearances. Where disappearances are caried out on a massive scale, on political, racial or religious grounds, they constitute a crime against humanity and, consequently, cannot be subject to statutory limitations.

52. The very nature of enforced or involuntary disappearances provides a legal argument against statutory limitations: the effects of this offence continue until such time as the victim's circumstances change or are clarified. As it is a continuing offence, the term of limitation on criminal

action begins from the day when the crime ceases to be committed. The Inter-American Court of Human Rights supported this view in its rulings over two cases of disappearances in Honduras. Consequently, national legislation should incorporate enforced or involuntary diappearances as a separate, punishable act which is not subject to any kind of statutory limitations.

Impunity and its consequences on democracy and the enjoyment of economic and social rights

53. AAJ, CEAPAZ, the International Federation Terre des Hommes, SERPAJ-AL and SJCAOAR referred to questions linked with impunity, such as the functioning of a democratic society, the enjoyment of economic, social and cultural rights and popular participation. They express the view that failure to ensure the enforcement of the most basic justice, and allowing certain individuals or groups to set themselves above the law engenders a climate of mistrust and fear in which those in authority are able to violate human rights without let or hindrance. Vulnerable members of the population are deprived of any means of defending themselves. In addition, impunity is enjoyed not only by those who killed, tortured, or contributed to disappearances, but also by those who utilized their power to commit economic offences which were the cause of hunger and death for large numbers of people. Under a heavy external debt which impoverishes the weakest sectors of the population to levels well under the minimum necessary to survive, people, and in particular children, are deprived of their right to life. In such circumstances, the effects of a veritable state of criminality practised by the State itself lead to the destruction of the social fabric: victims are not only organized groups or movements which spring up in response to institutionalized violence, but also peasants, workers, urban settlers, marginal persons (more particularly, hundreds of juveniles), indigenous populations (who are the target of massacres verging on genocide), displaced persons and leaders of different kinds of parties or movements criticizing government policies. In this way, the destruction of the social fabric turns into cultural disintegration.

54. The results of the democratization process of the 1980s are limited and conditioned. Even when they return to their barracks, the armed forces are not far from power; it is a shared power in which the balance between the two elements varies. Democracy is limited, since it cannot withstand national economic, political, social or cultural objectives. The low level of participatory economic and social democracy affords greater scope to the advocates of impunity. However, progress in the fight against impunity is linked to the strengthening of the democratic process, which is itself impeded by the restrictions imposed by the practise of impunity. When popular participation is hampered by terror, the spread of poverty is encouraged, inducing a climate of structural violence. This creates a vicious circle in which democracy and participation cannot develop in spite of efforts made by democratically elected Governments.

55. Any initiative to eradicate disappearances and impunity will be of limited effect if NGOs monitoring human rights do not take part, not only through the mass of information they possess, but also as a way of involving civilian society in a very difficult task.

Annex II

DRAFT DECLARATION ON THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE a/

The General Assembly,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations and other international instruments, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind the obligation of States under the Charter of the United Nations, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

Deeply concerned that in many countries, often in a persistent manner, enforced disappearances occur, in the sense that persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, thereby placing such persons outside the protection of the law,

Considering that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the systematic practice of such acts is of the nature of a crime against humanity,

Recalling resolution 33/173 of 20 December 1978, by which the General Assembly expressed concern about the reports from various parts of the world relating to enforced or involuntary disappearances, as well as about the anguish and sorrow caused by those disappearances, and called upon Governments to hold law enforcement and security forces legally responsible for excesses which might lead to enforced or involuntary disappearances of persons,

Recalling also the protection afforded to victims of armed conflicts by the Geneva Conventions of 12 August 1949 and the Additional Protocols of 1977,

Having regard in particular to the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which protect the right to life, the right to liberty and security of the person, the right not to be subjected to torture and the right to recognition as a person before the law,

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a/ The draft Declaration was adopted without change by the General Assembly in its resolution 47/133 of 18 December 1992.

Having regard further to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that States parties shall take effective measures to prevent and punish acts of torture,

Bearing in mind the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Standard Minimum Rules for the Treatment of Prisoners,

Affirming that, in order to prevent enforced disappearances, it is necessary to ensure strict compliance with the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment contained in its resolution 43/173 of 9 December 1988, and with the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, set forth in the annex to Economic and Social Council resolution 1989/65 of 24 May 1989 and endorsed by the General Assembly in its resolution 44/162 of 15 December 1989,

Bearing in mind that, while the acts which comprise enforced disappearance constitute a violation of the prohibitions found in the aforementioned international instruments, it is none the less important to devise an instrument which characterizes all acts of enforced disappearance of persons as very serious offences, setting forth standards designed to punish and prevent their commission,

Proclaims the present Declaration on the Protection of All Persons from Enforced Disappearance, as a body of principles for all States,

Urges that all efforts be made so that this Declaration becomes generally known and respected.

Article 1

1. Any act of enforced disappearance is an offence to human dignity. It is condemned as a denial of the purposes of the Charter of the United Nations and as a grave and flagrant violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and reaffirmed and developed in international instruments in this field.

2. Such act of enforced disappearance places the persons subjected thereto outside the protection of the law and inflicts severe suffering on them and their families. It constitutes a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. It also violates or constitutes a grave threat to the right to life.

Article 2

1. No State shall practise, permit or tolerate enforced disappearances.

2. States shall act at the national and regional levels and in cooperation with the United Nations to contribute by all means to the prevention and eradication of enforced disappearance.

Article 3

Each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.

Article 4

1. All acts of enforced disappearance shall be offences under the criminal law punishable by appropriate penalties which shall take into account their extreme seriousness.

2. Mitigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntarily information which would contribute to clarifying cases of enforced disappearance.

Article 5

In addition to such criminal penalties as are applicable, enforced disappearances render their perpetrators and the State or State authorities which organize, acquiesce in or tolerate such disappearances liable at civil law, without prejudice to the international responsibility of the State concerned in accordance with the principles of international law.

Article 6

1. No order or instruction of any public authority, civilian, military or other, may be invoked to justify an enforced disappearance. Any person receiving such an order or instruction shall have the right and duty not to obey it.

2. Each State shall ensure that orders or instructions directing, authorizing or encouraging any enforced disappearance are prohibited.

3. Training of law enforcement officials shall emphasize the above provisions.

Article 7

No circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.

Article 8

1. No State shall expel, return (refouler) or extradite a person to another State where there are substantial grounds to believe that he would be in danger of enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 9

1. The right to a prompt and effective judicial remedy as a means of determining the whereabouts or state of health of persons deprived of their liberty and/or identifying the authority ordering or carrying out the deprivation of liberty is required to prevent enforced disappearances under all circumstances, including those referred to in article 7.

2. In such proceedings, competent national authorities shall have access to all places holding persons deprived of their liberty and to each part thereof, as well as to any place in which there are grounds to believe that such persons may be found.

3. Any other competent authority entitled under the law of the State or by any international legal instruments to which a State is a party may also have access to such places.

Article 10

1. Any person deprived of liberty shall be held in an officially recognized place of detention and, in conformity with national law, be brought before a judicial authority promptly after detention.

2. Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.

3. An official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Additionally, each State shall take steps to maintain similar centralized registers. The information contained in these registers shall be made available to the persons mentioned in the paragraph above, to any judicial or other competent and independent national authority and to any other competent authority entitled under the law of the State concerned or any international legal instrument to which a State concerned is a party, seeking to trace the whereabouts of a detained person.

Article 11

All persons deprived of liberty must be released in a manner permitting reliable verification that they have actually been released and, further, have been released in conditions in which their physical integrity and ability fully to exercise their rights are assured.

Article 12

1. Each State shall establish rules under its national law indicating those officials authorized to order deprivation of liberty, establishing the conditions under which such orders may be given, and stipulating penalties for officials who, without legal justification, refuse to provide information on any detention.

2. Each State shall likewise ensure strict supervision, including a clear chain of command, of all law enforcement officials responsible for apprehensions, arrests, detentions, custody, transfers and imprisonment, and of other officials authorized by law to use force and firearms.

Article 13

1. Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation.

2. Each State shall ensure that the competent authority shall have the necessary powers and resources to conduct the investigation effectively, including powers to compel attendance of witnesses and production of relevant documents and to make immediate on-site visits.

3. Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal.

4. The findings of such an investigation shall be made available upon request to all persons concerned, unless doing so would jeopardize an ongoing criminal investigation.

5. Steps shall be taken to ensure that any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or the investigation procedure is appropriately punished.

6. An investigation, in accordance with the procedures described above, should be able to be conducted for as long as the fate of the victim of enforced disappearance remains unclarified.

Article 14

Any person alleged to have perpetrated an act of enforced disappearance in a particular State shall, when the facts disclosed by an official investigation so warrant, be brought before the competent civil authorities of that State for the purpose of prosecution and trial unless he has been extradited to another State wishing to exercise jurisdiction in accordance with the relevant international agreements in force. All States should take any lawful and appropriate action available to them to bring all persons presumed responsible for an act of enforced disappearance, found to be within their jurisdiction or under their control, to justice.

Article 15

The fact that there are grounds to believe that a person has participated in acts of an extremely serious nature such as those referred to in article 4, paragraph 1, regardless of the motives, shall be taken into account when the competent authorities of the State decide whether or not to grant asylum.

Article 16

1. Persons alleged to have committed any of the acts referred to in article 4, paragraph 1, shall be suspended from any official duties during the investigation referred to in article 13.

2. They shall be tried only by the competent ordinary courts in each State, and not by any other special tribunal, in particular military courts.

3. No privileges, immunities or special exemptions shall be admitted in such trials, without prejudice to the provisions contained in the Vienna Convention on Diplomatic Relations.

4. The persons presumed responsible for such acts shall be guaranteed fair treatment in accordance with the relevant provisions of the Universal Declaration of Human Rights and other relevant international agreements in force at all stages of the investigation and eventual prosecution and trial.

Article 17

1. Acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified.

2. When the remedies provided for in article 2 of the International Covenant on Civil and Political Rights are no longer effective, the statute of limitations relating to acts of enforced disappearance shall be suspended until these remedies are re-established.

3. Statutes of limitations, where they exist, relating to acts of enforced disappearance shall be substantial and commensurate with the extreme seriousness of the offence.

Article 18

1. Persons who have, or are alleged to have, committed offences referred to in article 4, paragraph 1, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.

2. In the exercise of the right of pardon, the extreme seriousness of acts of enforced disappearance shall be taken into account.

Article 19

The victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete a rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation.

Article 20

1. States shall prevent and suppress the abduction of children of parents subjected to enforced disappearance and of children born during their mother's enforced disappearance, and shall devote their efforts to the search for, and identification of, such children and to the restitution of the children to their families of origin.

2. Considering the need to protect the best interests of children referred to in the preceding paragraph, there shall be an opportunity, in States which recognize a system of adoption, for a review of the adoption of such children and, in particular, for annulment of any adoption which originated in enforced disappearance. Such adoption should, however, continue to be in force if consent is given, at the time of the review mentioned above, by the child's closest relatives.

3. The abduction of children of parents subjected to enforced disappearance or of children born during their mother's enforced disappearance, and the act of altering or suppressing documents attesting to their true identity, shall constitute an extremely serious offence, which shall be punished as such.

4. For these purposes, States shall, where appropriate, conclude bilateral and multilateral agreements.

Article 21

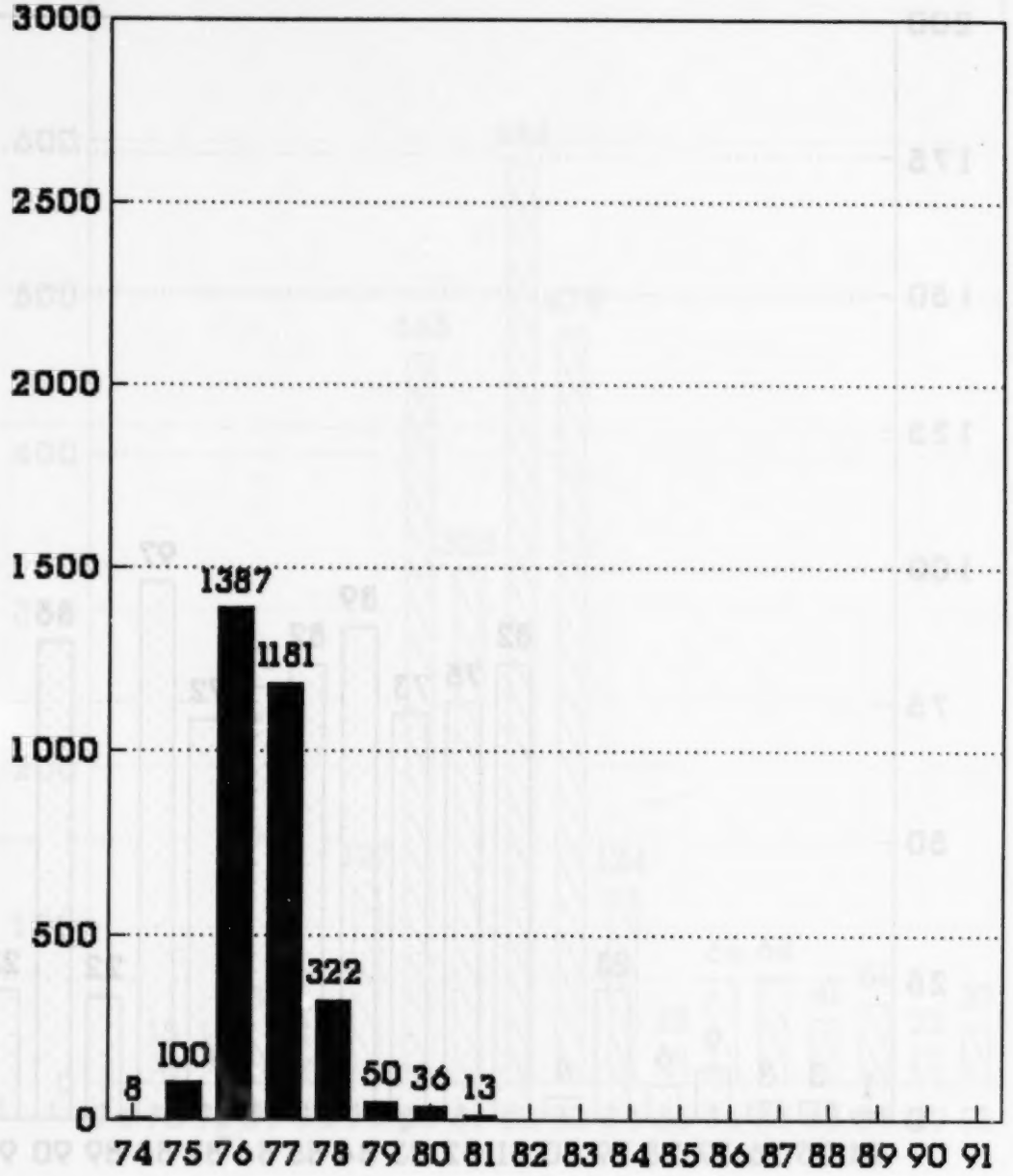
The provisions of the present Declaration are without prejudice to the provisions enunciated in the Universal Declaration of Human Rights or in any other international instrument, and shall not be construed as restricting or derogating from any of the provisions contained therein.

Annex III

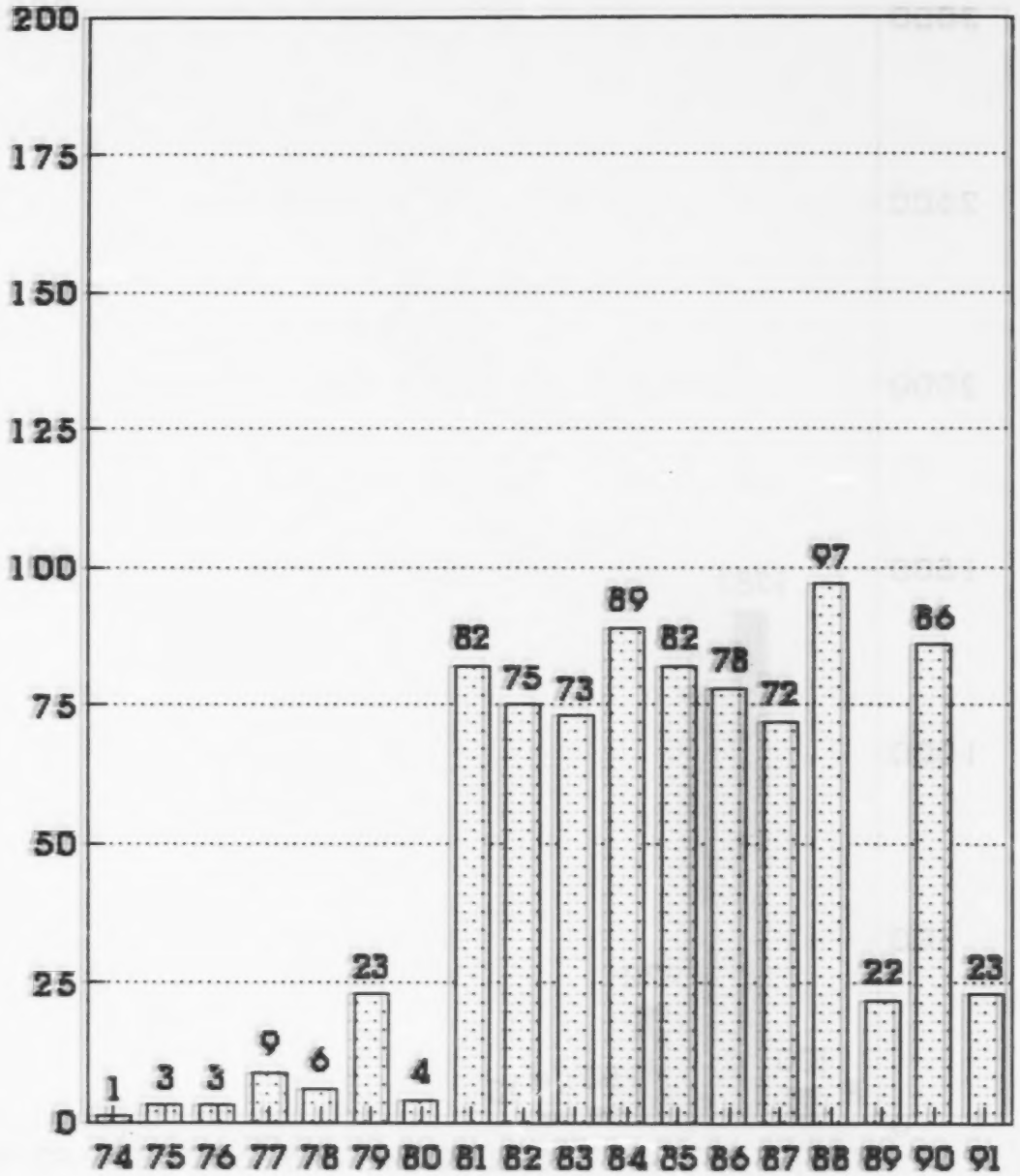
GRAPHS SHOWING THE DEVELOPMENT OF DISAPPEARANCES IN COUNTRIES WITH MORE THAN 50 TRANSMITTED CASES DURING THE PERIOD 1973-1991

These graphs do not include cases of disappearance for the year under consideration as, by experience, many cases are often received by the Working Group only during the following year. The graph on disappearances in Chile is not included; lack of resources has been an obstacle to the completion of the task of entering those cases in the Working Group's database. Their transmission was, however, possible because they were submitted on a computerized diskette previously processed through a database compatible with that of the Chilean Government but not with the one used by the Working Group.

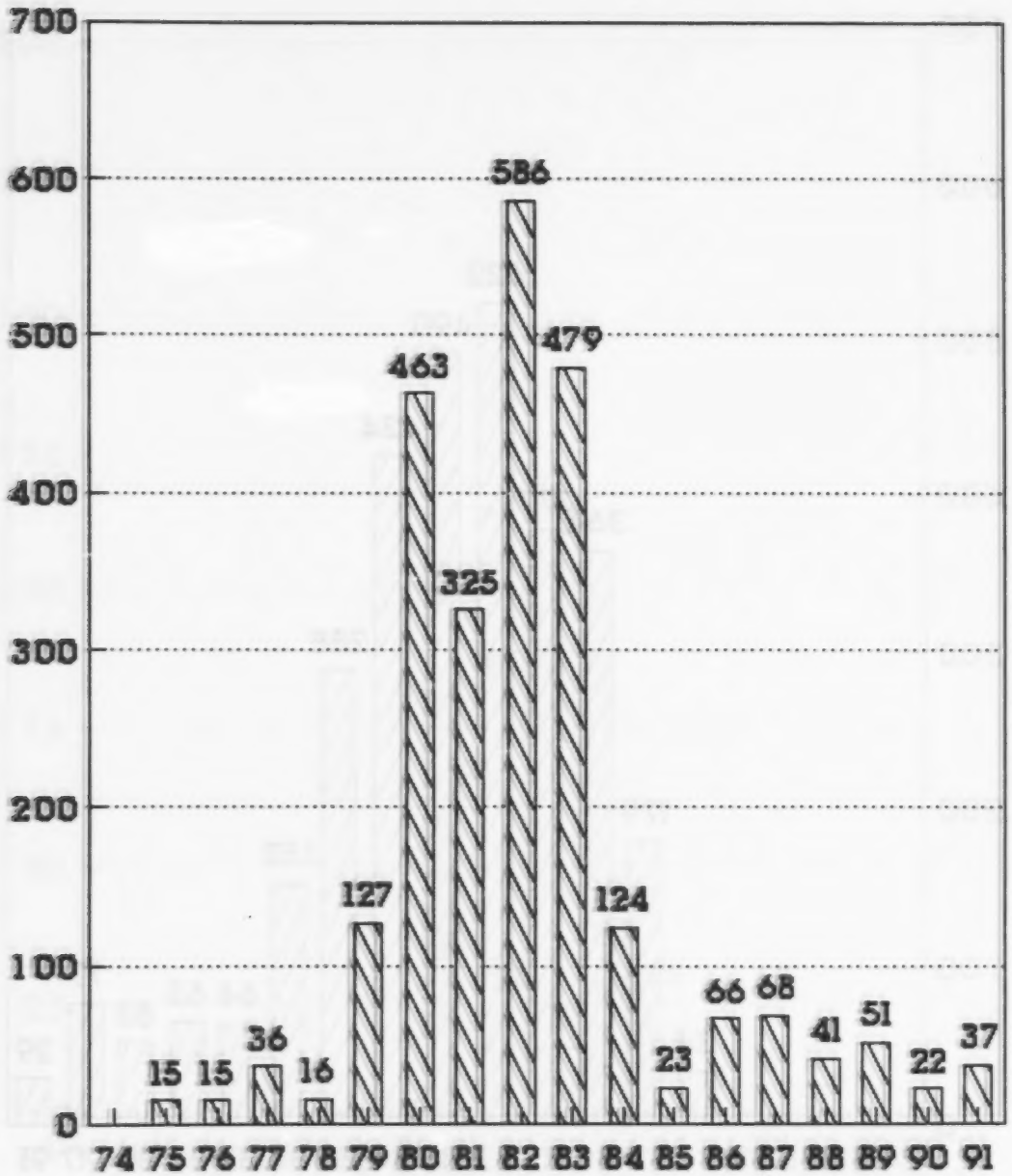
DISAPPEARANCES IN ARGENTINA OVER THE PERIOD 1974-1991



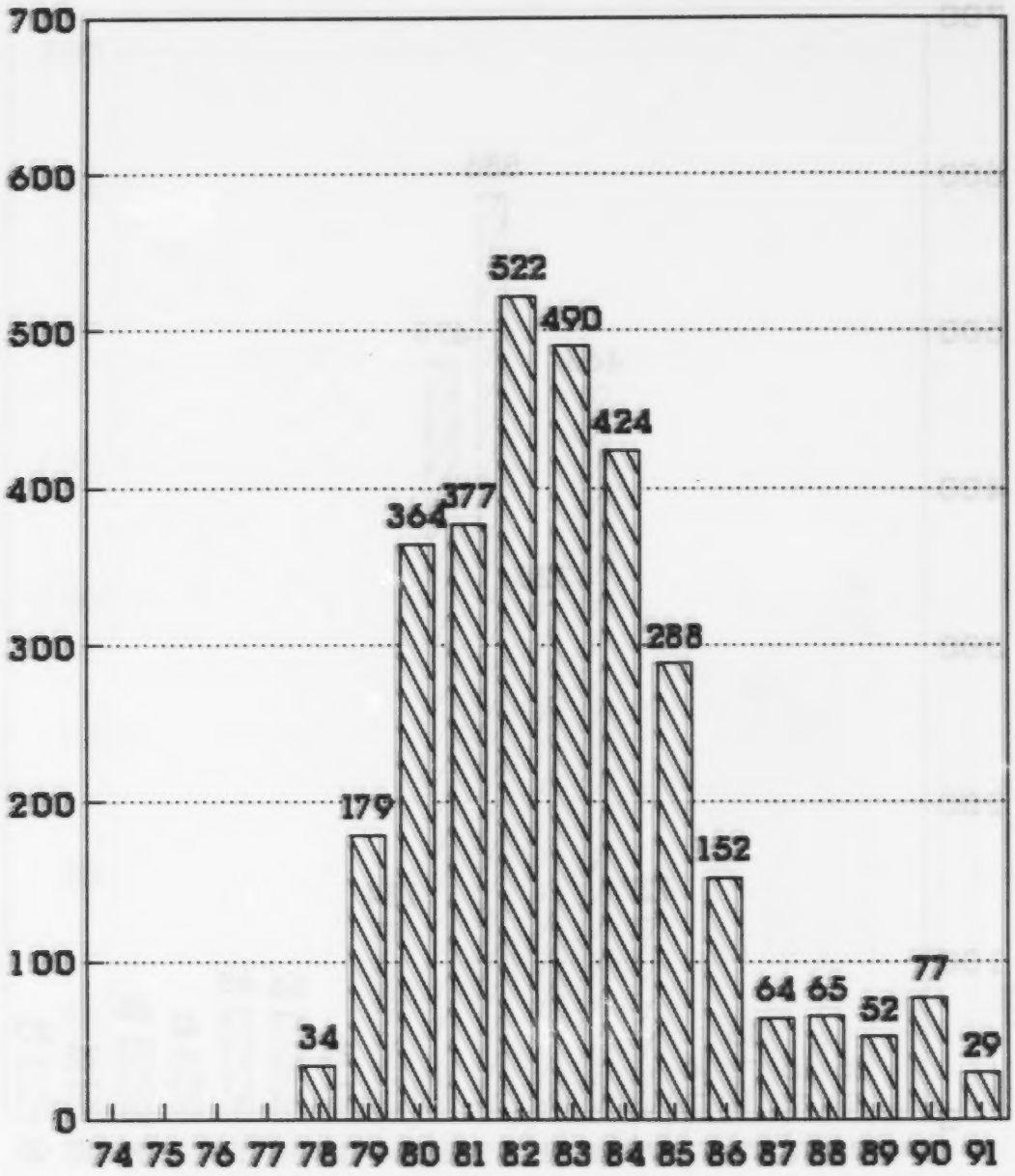
DISAPPEARANCES IN COLOMBIA OVER THE PERIOD 1974-1991



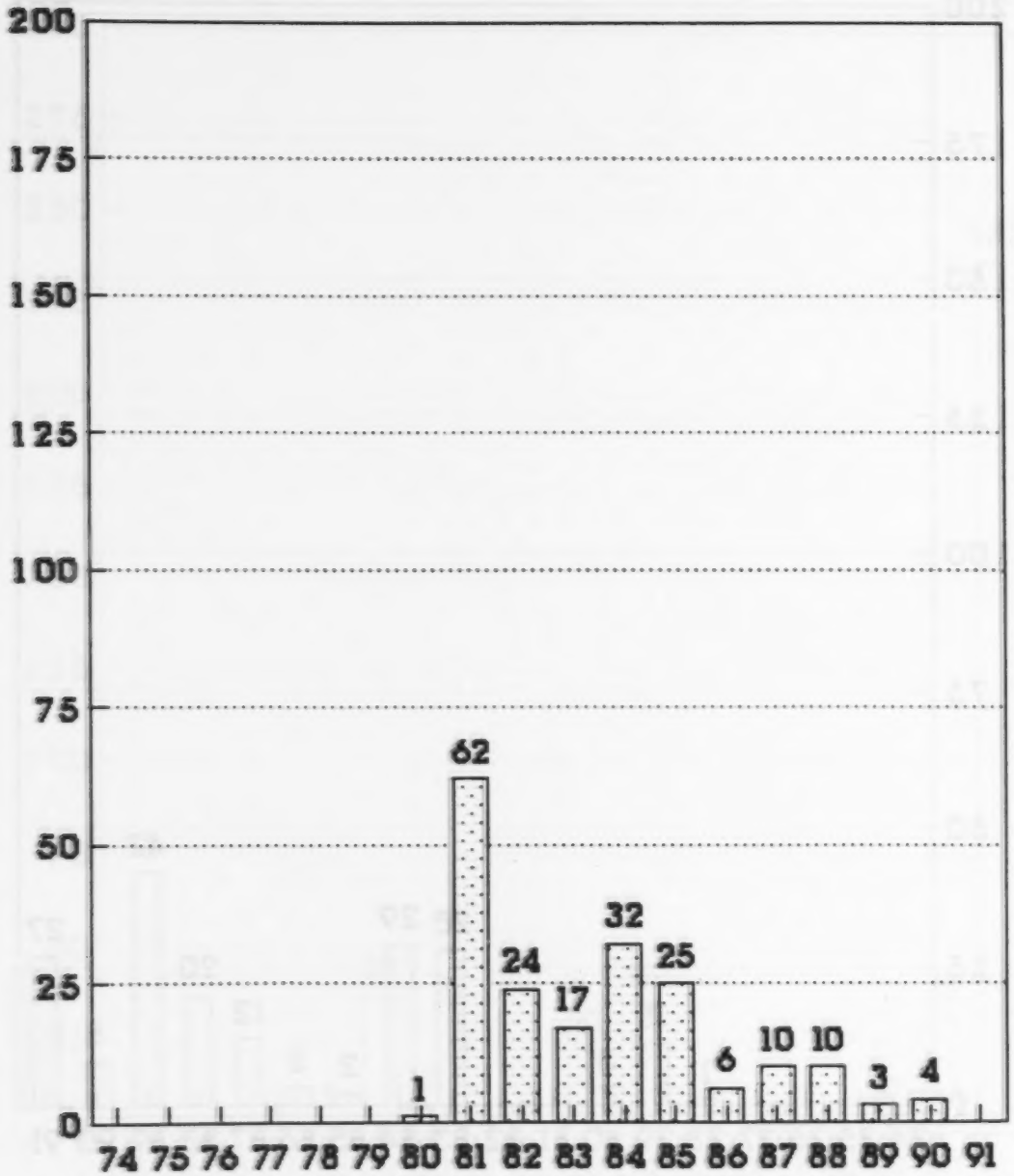
DISAPPEARANCES IN EL SALVADOR OVER THE PERIOD 1974-1991



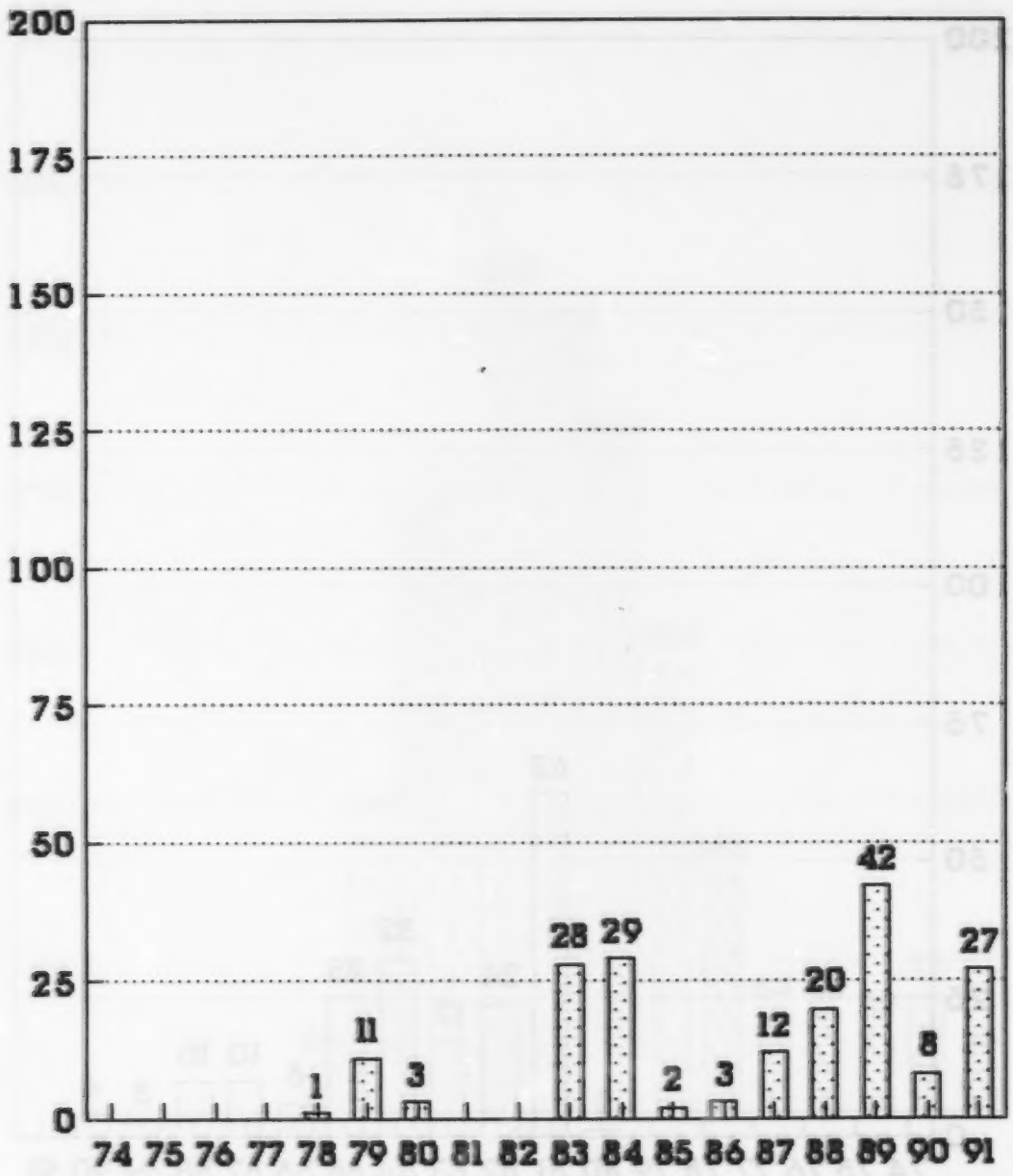
DISAPPEARANCES IN GUATEMALA OVER THE PERIOD 1974 -1991



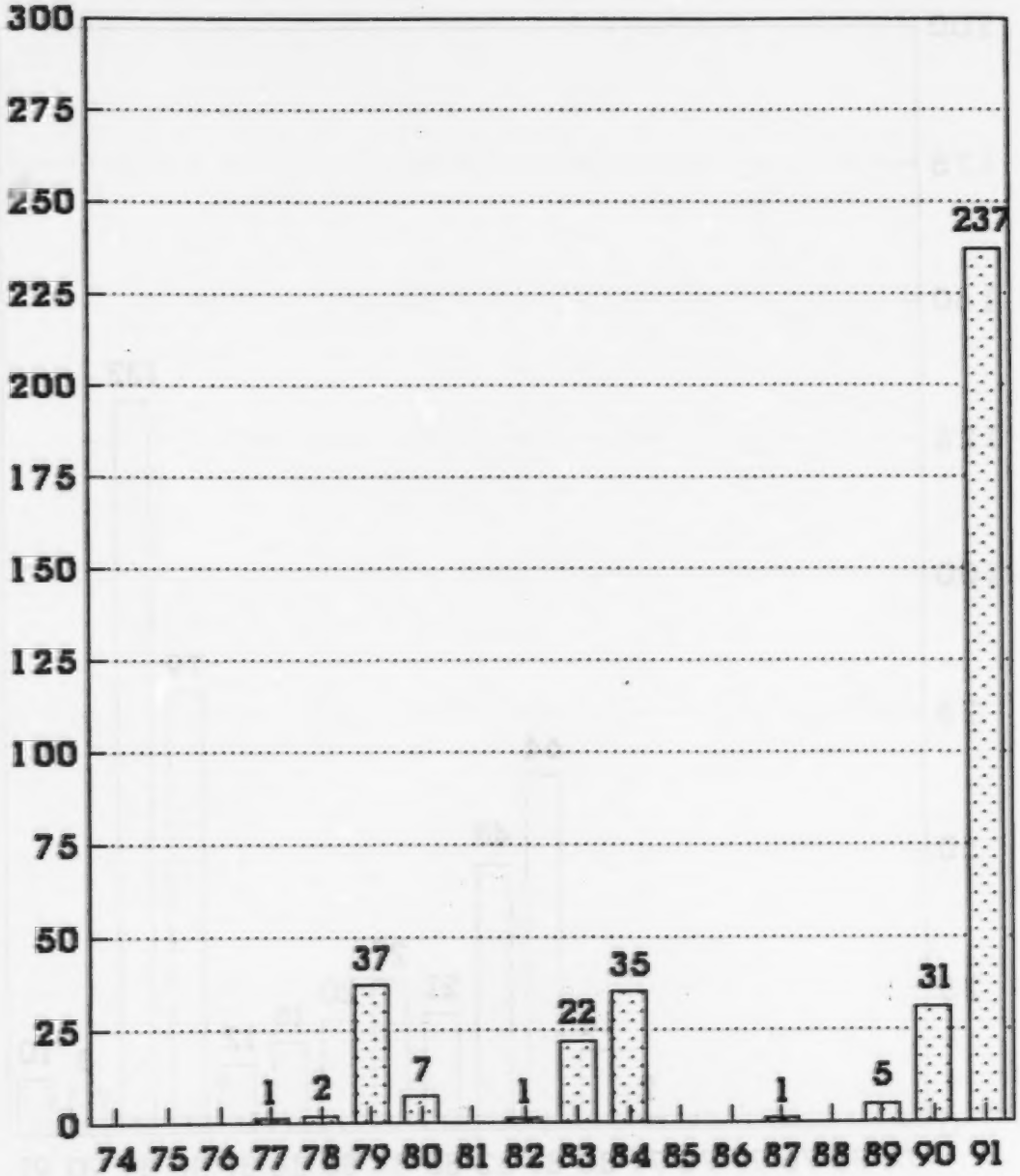
**DISAPPEARANCES IN HONDURAS
OVER THE PERIOD 1974-1991**



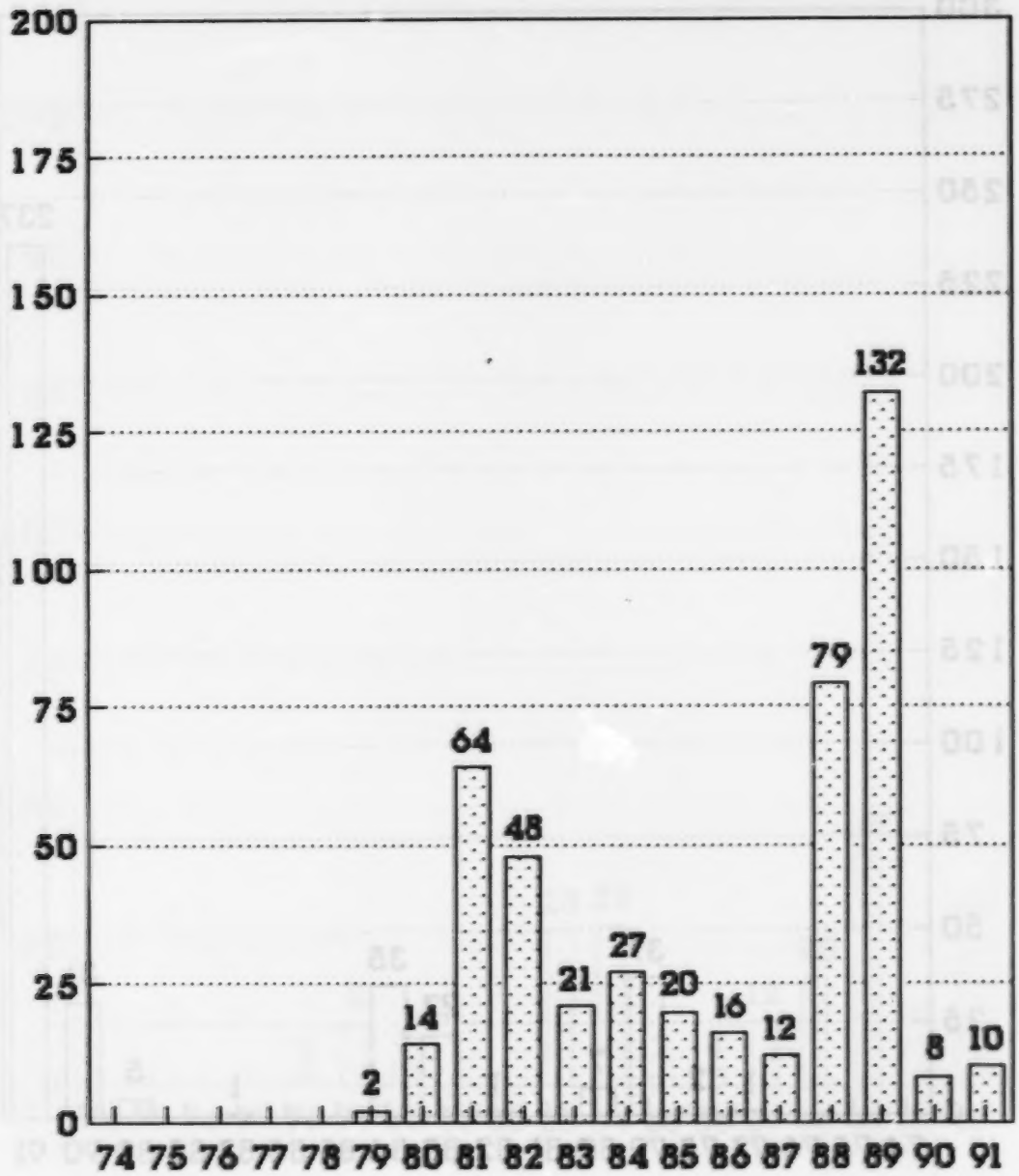
**DISAPPEARANCES IN INDIA
OVER THE PERIOD 1974-1991**



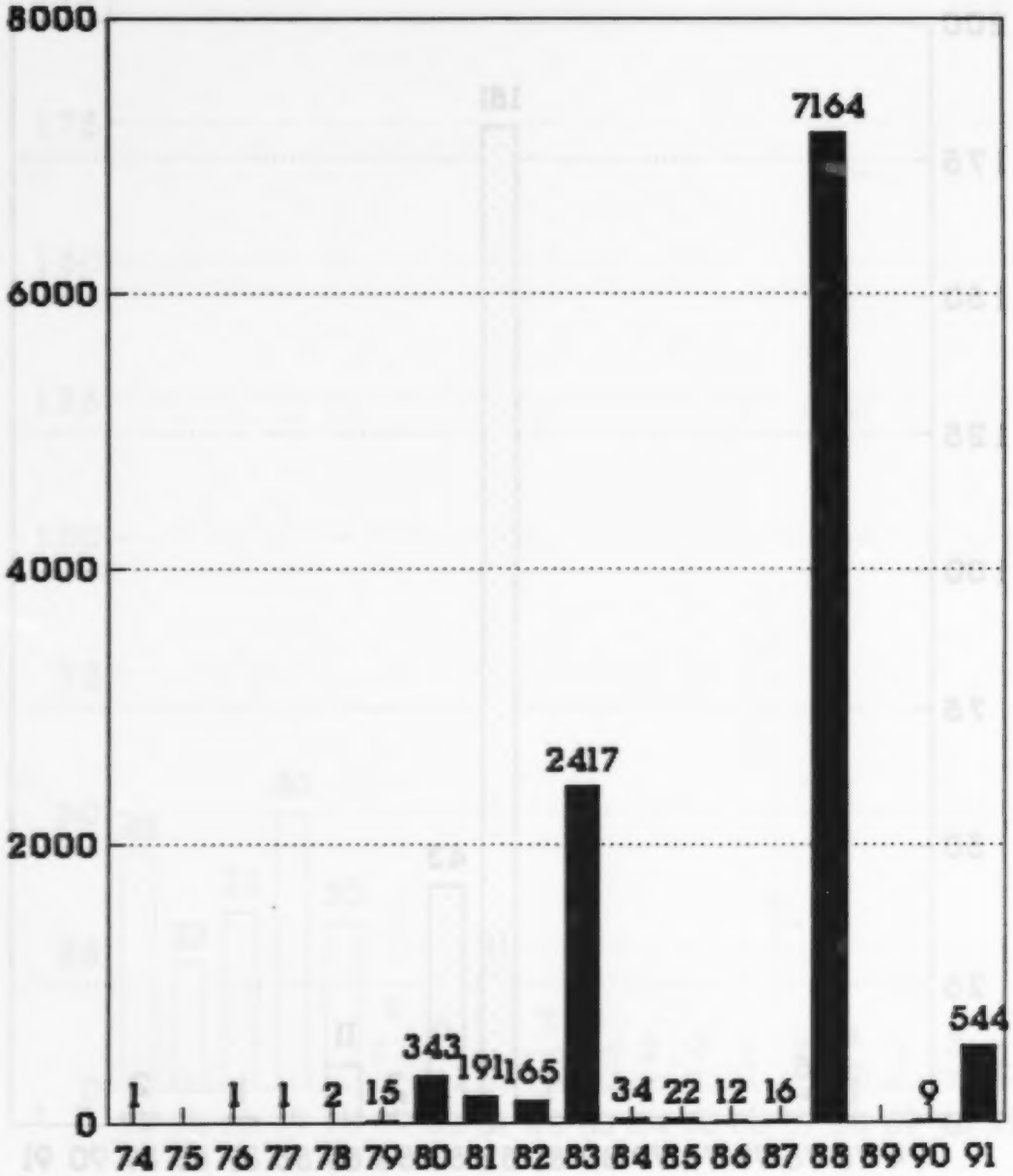
DISAPPEARANCES IN INDONESIA OVER THE PERIOD 1974-1991



DISAPPEARANCES IN THE ISLAMIC REPUBLIC OF IRAN OVER THE PERIOD 1974-1991

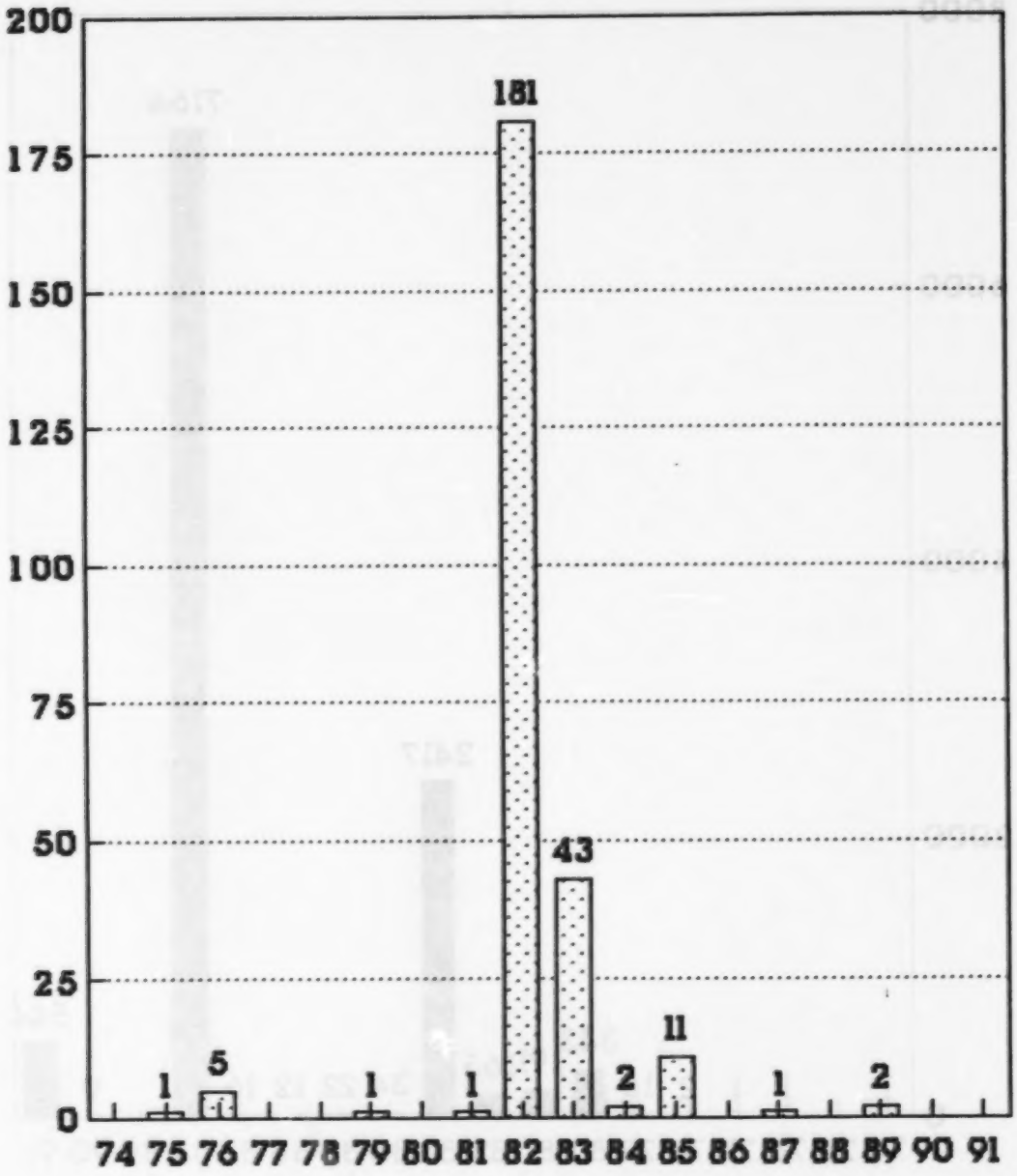


DISAPPEARANCES IN IRAQ OVER THE PERIOD 1974-1991

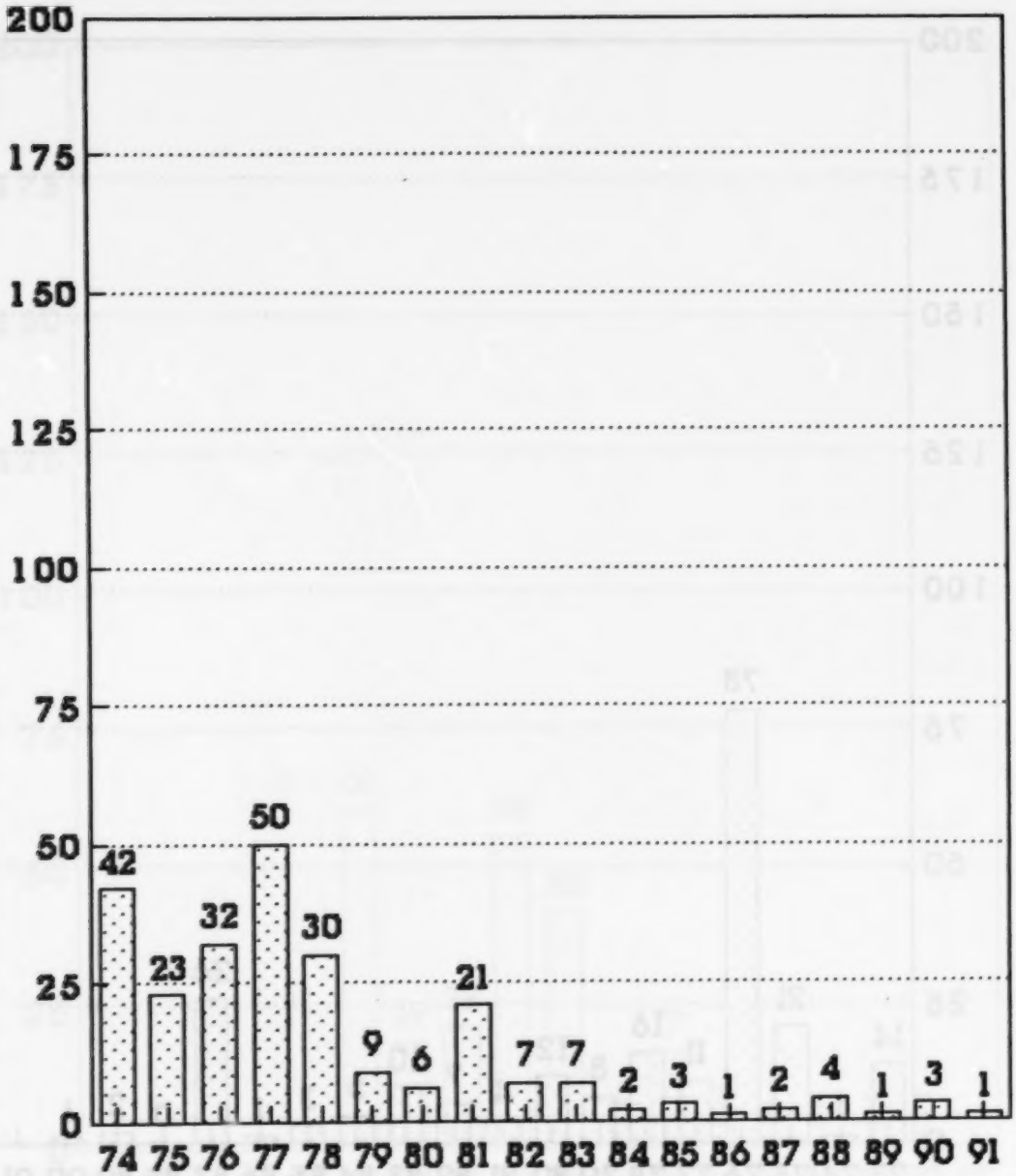


1/ It is to be noted that while the graph fairly reflects the frequency and concentration of reported cases of disappearance, it is not representative of the number of disappearances reported for the years 1988 and 1991 due to a considerable backlog in the transmission of cases. Reference is made to paras. 521-523 of the present report.

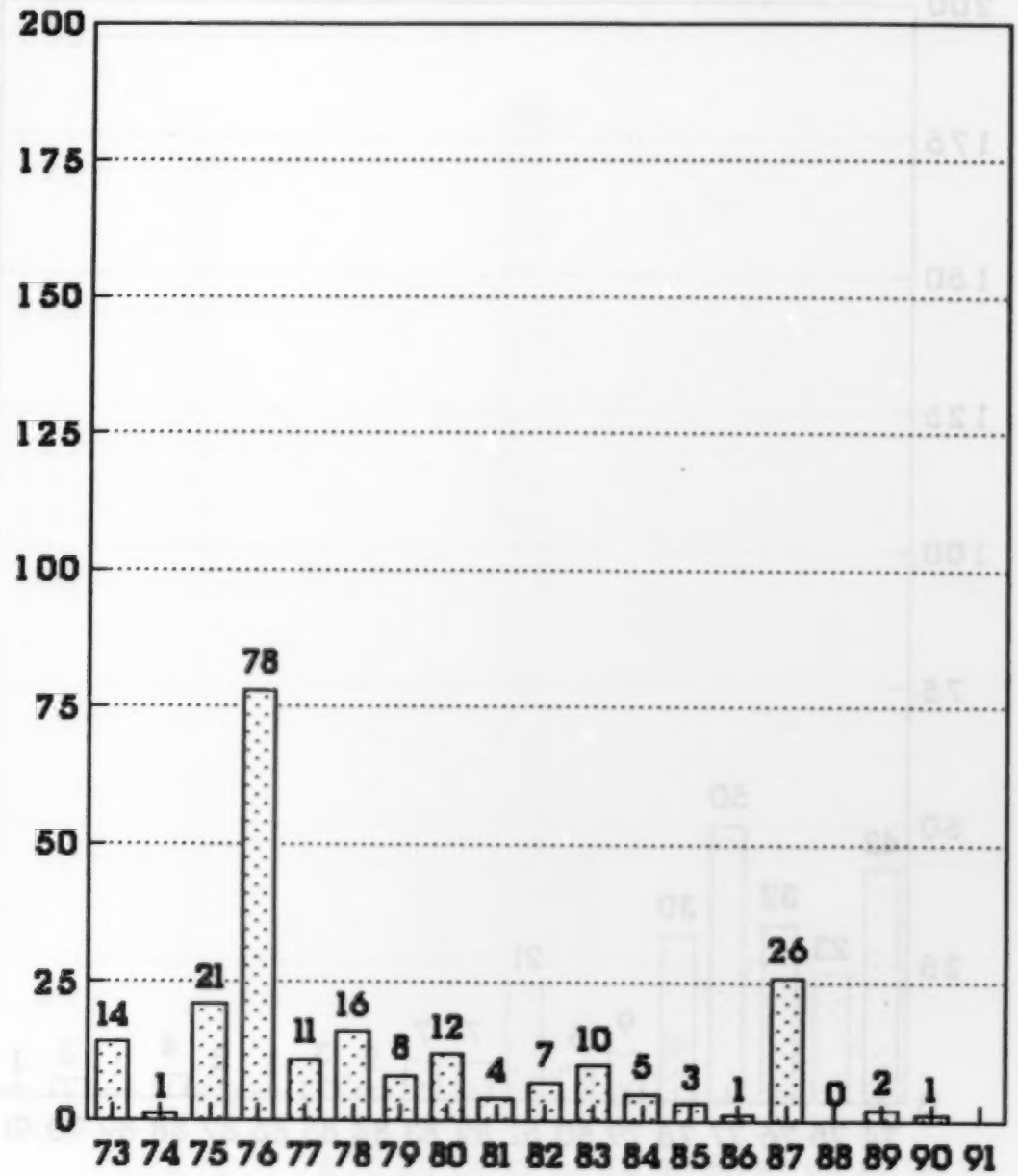
DISAPPEARANCE IN LEBANON OVER THE PERIOD 1974-1991



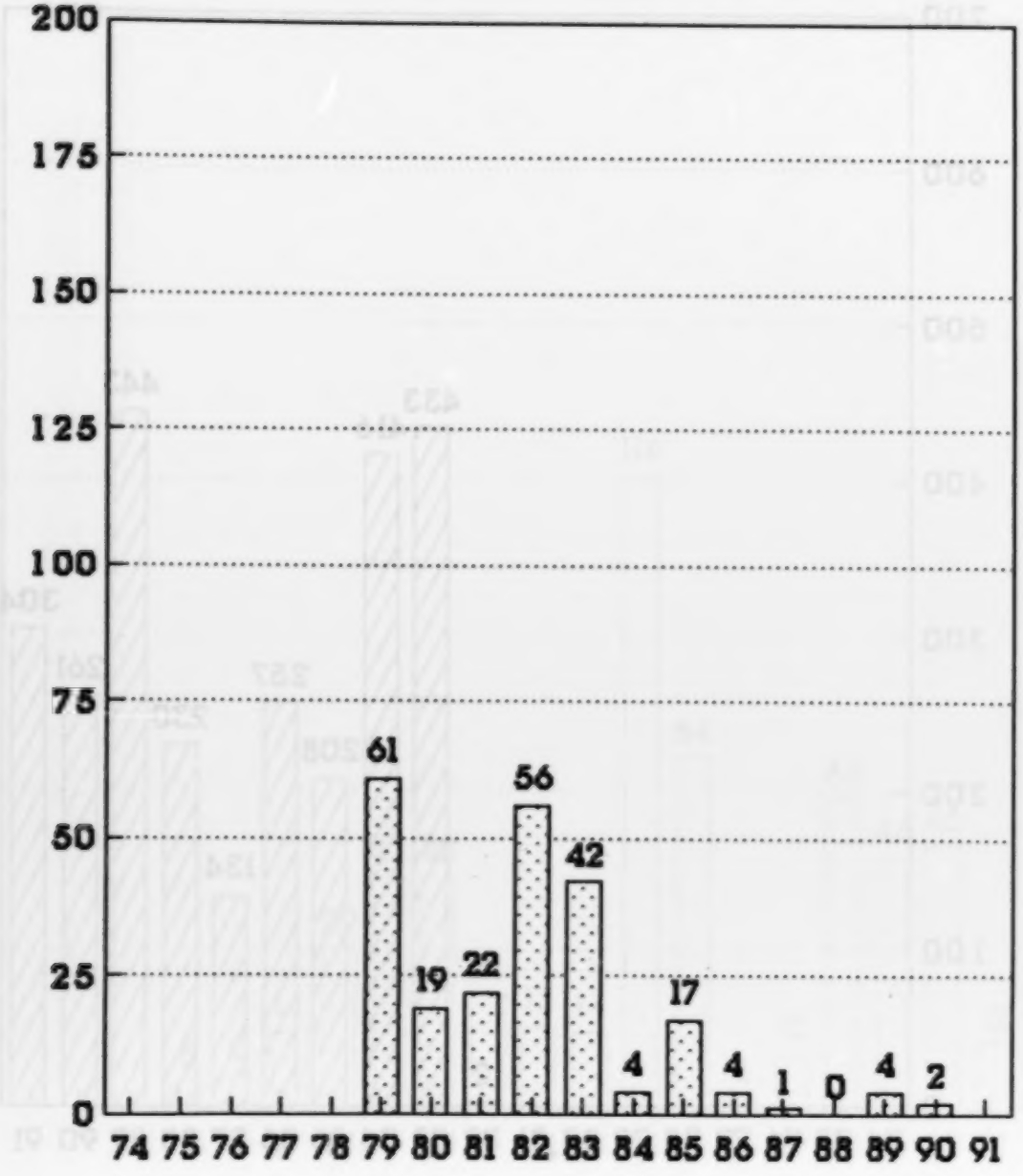
DISAPPEARANCES IN MEXICO OVER THE PERIOD 1974-1991



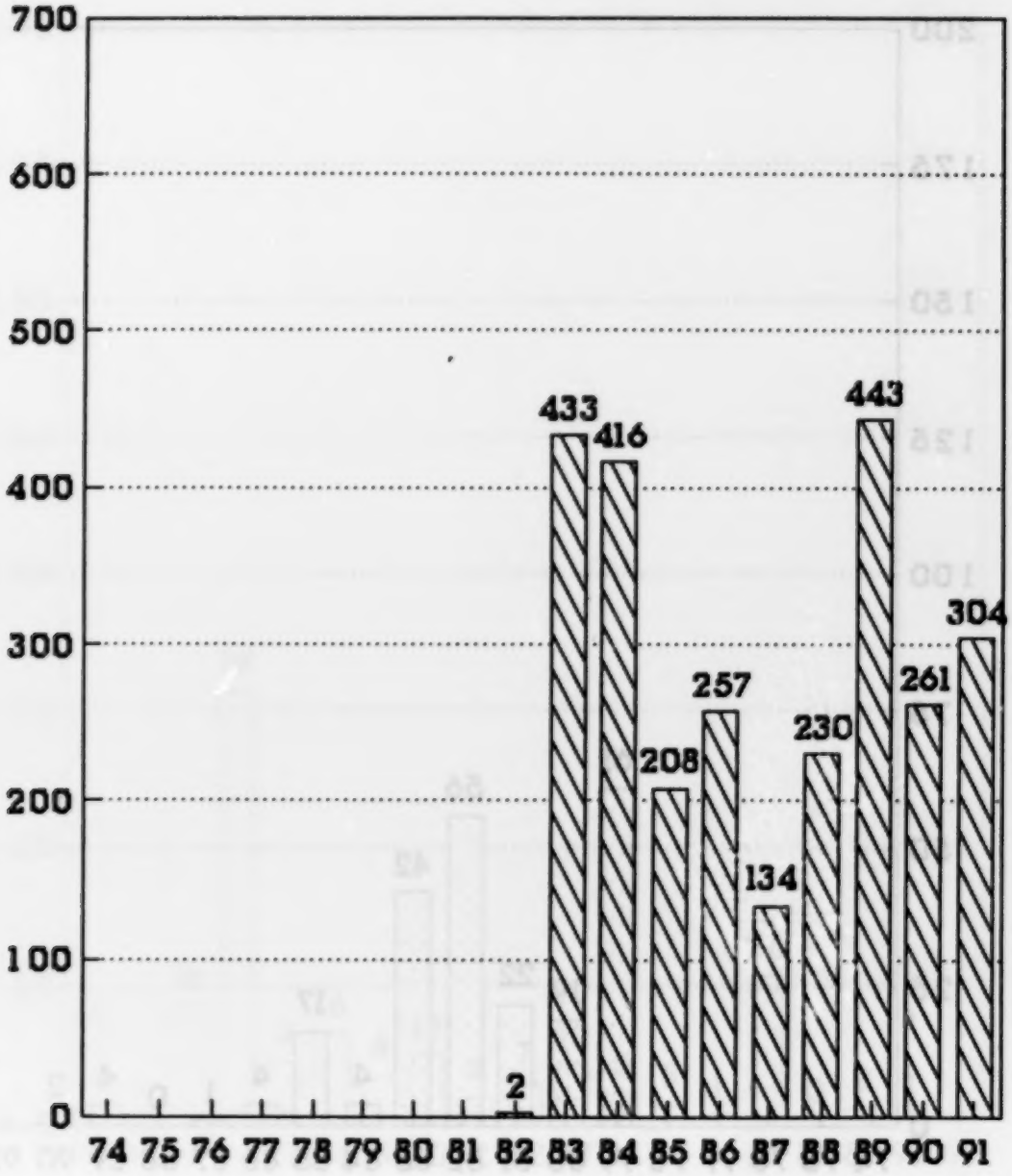
**DISAPPEARANCES IN MOROCCO
OVER THE PERIOD 1973-1991**



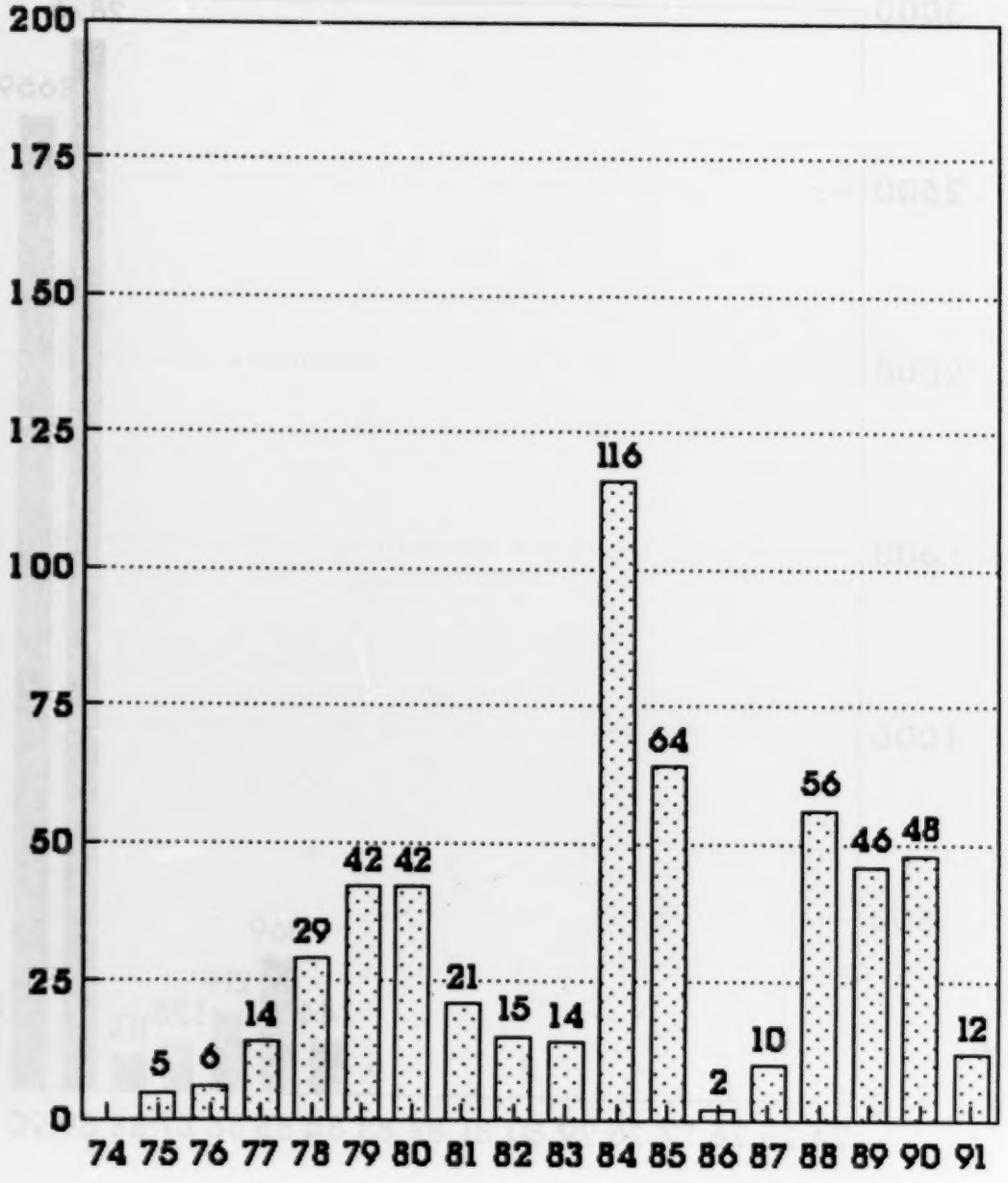
DISAPPEARANCES IN NICARAGUA OVER THE PERIOD 1974-1991



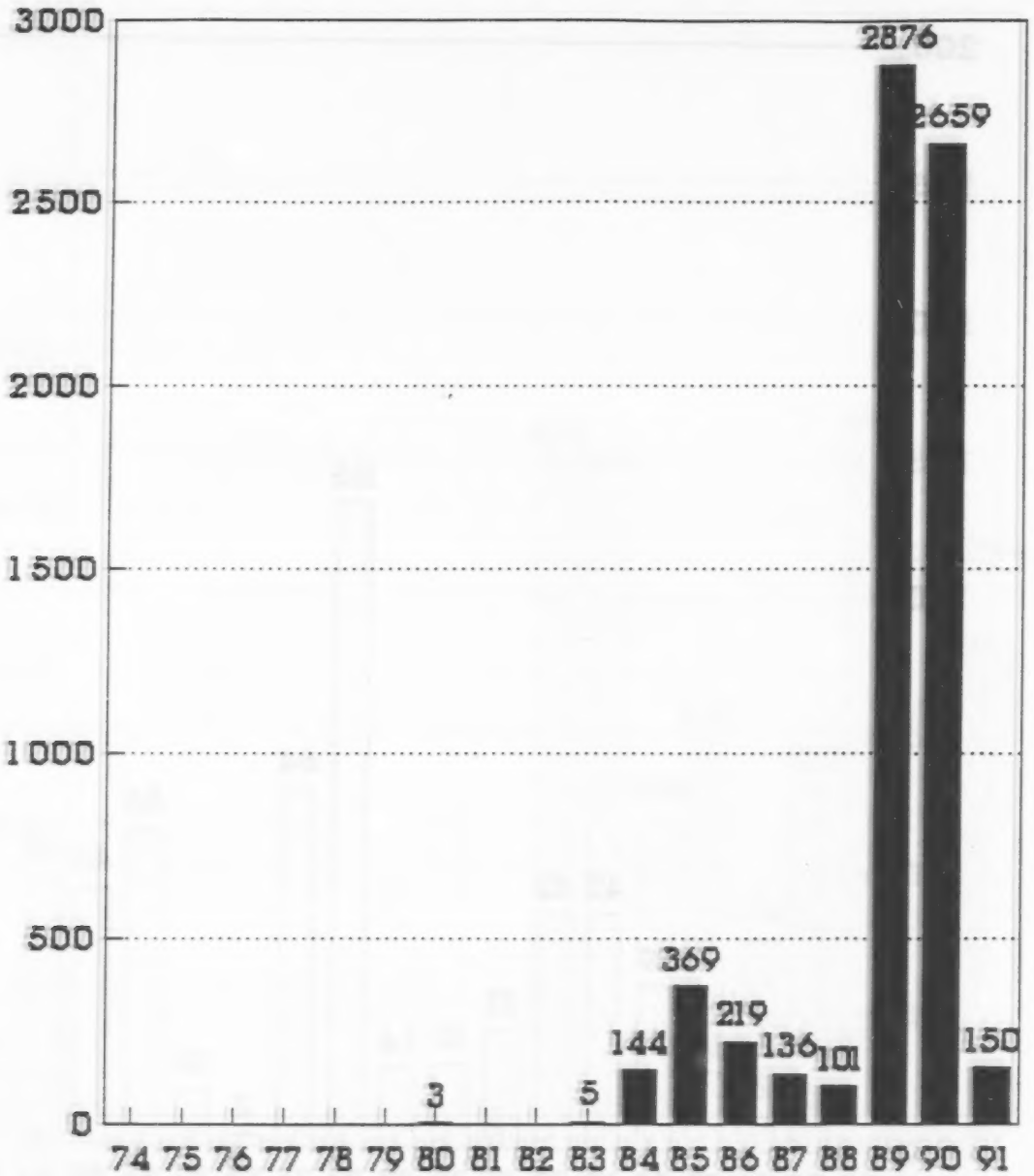
**DISAPPEARANCES IN PERU
OVER THE PERIOD 1974-1991**



DISAPPEARANCES IN THE PHILIPPINES OVER THE PERIOD 1974-1991



DISAPPEARANCES IN SRI LANKA OVER THE PERIOD 1974-1991



Note. The graph for 1990 and in particular the one for 1991 is not representative of the number of disappearances reported for the corresponding year, due to a considerable backlog in the transmission of cases. Reference is made to paras. 521-523 of the present report.